

R E P O R T

OF THE

PROCEEDINGS

IN

Cases of High Treason,

AT AN ADJOURNMENT OF A COMMISSION OF

OYER AND TERMINER,

HELD IN AND FOR THE

COUNTY AND CITY OF DUBLIN,

IN THE MONTH OF DECEMBER,

1795.

By WILLIAM RIDGEWAY, Esq.

BARRISTER AT LAW.

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PROCEEDINGS

Confidential

AT AN ADJOURNMENT OF A COMMISSION OF

OVER AND THERE

FORM NO. CMA-71-0218

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IN THE MONTH OF DECEMBER,

251

BY WILLIAM RICHMOND

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IN

Cases of High Treason.

COMMISSION:

Monday December 14th, 1795.

Mr. *Baron* GEORGE sat as the Judge of the Commission,
and was assisted by Mr. *Justice* CHAMBERLAIN
and Mr. *Justice* FINUCANE.

IN the latter end of the month of *August* 1795, several persons were taken into custody in the city of *Dublin* upon charges of High Treason, and in the ensuing commission of *Oyer and Terminer* held in *October*, bills of indictment were preferred against them, and others not then in custody, which were returned by the Grand Jury to be true bills.

The prisoners in custody were then brought to the bar of the court for the purpose of having counsel and agents assigned.—They were severally called upon to name their

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own

own counsel and agents, and such as they named were assigned by the court, as follows :

Thomas Kennedy, George Lewis, Patrick Hart, Edward Hanlon, Thomas Cooke, John Lowry.

Counsel—Messrs. CURRAN and M'NALLY.

Agent—Mr. A. FITZGERALD.

Thomas Murphy, Michael Maguire.

Counsel—Messrs. M'NALLY and LYSAGHT.

Agent—Mr. M. KEARNEY.

Henry Flood.

Counsel—Messrs. FLETCHER and RIDGEWAY.

Agent—Mr. F. FLOOD.

In the interval between the *October* commission and the present, a person of the name of *James Weldon* was apprehended upon a charge of High Treason, and he together with such as had been previously in custody, were served with copies of the indictments and the captions thereof, *five* days before the first day of this commission.

This day the prisoners who had been in custody at the last commission were severally arraigned and pleaded, *Not Guilty.* (a)

When *Flood* was put to the Bar,

Mr. Ridgeway moved that the caption of the indictment might be read. The Court ordered it to be read, but the Clerk of the Crown said, he had it not in court: whereupon it was sent for, and being brought in, it appeared to be on paper.—The counsel then objected to its being read, and moved that the indictment be quashed for want of a caption. He said the caption ought to make part of the record, and be *annexed* to the indictment. Here it is neither—the caption is upon *paper*, whereas the records of this court are always upon *parchment*, as the indictment is, and the caption here is detached from the indictment. In several cases in the *St. Tr.* in the *Rebels* case in

(a) The prisoners had upon the first day of the *October* commission, presented petitions, stating that they were ready for their trial and praying they might be tried in that commission.

Fost. 2. and in *Hardy's* case, 1794, the caption and the indictment form one continued narrative, and it would be absurd, if it were otherwise. In *Fost.* 4. the caption states, "the bill hereunto annexed is a true bill, &c."

Mr. Attorney General. My Lords, the prisoner has been served with a copy of the caption and of the indictment, which is all that is required. He has no right to look into the record. He might as well object, that the indictment consisted of several skins of parchment, when it is too long to be contained in one.

The *Clerk* of the *Crown* said, that the caption did make part of the record.

Mr. Ridgeway. If the officer assert as a fact, what every man who has sight must be convinced is not so, I know not how to answer.

The *Court* said, that upon this point, they must be satisfied with the averment of their officer, and desired him to proceed and read the caption.

This was accordingly done, after which the indictment was read, and the prisoner was asked, was he guilty, or not?

Mr. Ridgeway said he intended to plead that there was no caption to the indictment, but that his client wished for his trial and instructed him to waive objections in point of form, which he had thought it his duty to state.

The prisoner then pleaded *Not Guilty*.

James Weldon was then put to the bar and desired to name his counsel; he named *Mr. Curran* and *Mr. McNally*, who were accordingly assigned to him:—Immediately after this, the *Clerk* of the *Crown* was proceeding to arraign the prisoner.

Mr. McNally. My Lords, I object to the prisoner's being arraigned at this time; I have only been assigned this morning: it is impossible I could be prepared to advise him in his plea. It may be said, he was served with a copy of the indictment; but I apprehend, counsel are not at liberty to consult with a prisoner in custody for treason, until they are assigned; therefore I submit, he ought to be allowed five days before he is called upon to plead.

Mr. Attorney General. My Lords, if the prisoner want time to prepare for his defence, I have no objection to any thing that is reasonable. He might have consulted with counsel after the copy of the indictment was served upon him; for although only two counsel are allowed to plead in court for

for him, yet he may have as many to *advise* with as he pleases, and directions were given, that counsel should be admitted to him.

Mr. *Justice* CHAMBERLAIN. In fact this man has not had counsel assigned till this morning, and as the *Attorney General* does not seem to object, I think it would be better to postpone his arraignment.

Mr. *Justice* FINUCANE. The act of parliament is not *peremptory* as to the assignment of counsel before pleading.

Mr. *Baron* GEORGE. No objection is made to allowing the prisoner time.

Mr. *Attorney General* then said, he intended to have *Weldon* tried first, and therefore all the other trials must be postponed. He mentioned *Saturday* for the arraignment and trial of *Weldon*, which day was accordingly appointed. But on *Friday* Mr. *Attorney General* moved to postpone the trial to *Monday*, lest an objection should be made, that the prisoner had not five *clear* days.

Mr. *Baron* GEORGE. There is another reason for postponing the trial; if it began on *Saturday* it might last till *Sunday*, which might be productive of inconvenience. Therefore let the trial stand for *Monday*.

Monday, December 21st.

The prisoner being put to the bar, Mr. *McNally* applied to have the caption read.

Mr. *Attorney General* opposed this application; the prisoner is not entitled to have the caption read, he has an attested copy, and can avail himself of that.

Mr. *McNally* cited *Fost.* 2. 228. 230, to shew that the caption is necessary to assist the prisoner in pleading.

The COURT said the caption ought to be read. The prisoner must be furnished with a copy of the whole record; how can he know whether he has such a copy unless the whole record be read.

The caption was accordingly read and appeared to be engrossed upon *parchment* and annexed to the indictment.

“ BE IT REMEMBERED, that at an adjournment
 “ of a Commission of Oyer and Terminer and General
 “ Gaol Delivery, held in and for the county of the city
 “ of *Dublin*, in that part of the King's Courts, *Dublin*,
 “ where the Court of King's Bench usually sits, on
 “ *Monday* the 26th day of *October*, in the year of our
 “ Lord God, one thousand seven hundred and ninety-
 “ five, and in the thirty-sixth year of the reign of our
 “ Sovereign Lord George the Third, King of Great
 “ Britain, France and Ireland, Defender of the Faith and
 “ soforth, before *William Worthington*, Lord Mayor of
 “ the said city, *Michael Smith*, Esq. one of the Barons
 “ of his Majesty's Court of Exchequer in the said
 “ Kingdom of *Ireland*, *Mathias Finucane*, Esq. one of
 “ the Justices of his Majesty's Court of Common Pleas
 “ in the said Kingdom of *Ireland*, and *Denis George*,
 “ Esq. one other of the Barons of the said Court of
 “ Exchequer in the Kingdom of *Ireland*, and others,
 “ their fellow Justices and Commissioners of our said
 “ Lord the King, in and for the whole county of the
 “ said city of *Dublin*, assigned by the Letters Patent of
 “ our said Lord the King, under the Great Seal of his
 “ said Kingdom of *Ireland*, bearing date at *Dublin* the
 “ 20th day of *June*, in the first year of the reign of our
 “ said Lord the King, directed to *Patrick Hamilton*, Esq.
 “ the then Lord Mayor of the said city of *Dublin*, and
 “ the Lord Mayor of the said city for the time being,
 “ *John Lord Baron Bowes* of *Clon'yon* then being Chan-
 “ cellor of the Kingdom of *Ireland*, and the Chancellor
 “ of the said Lord the King of the said Kingdom for the
 “ time being, *Chaworth Earl of Meath*, *Richard Earl*
 “ of *Ross*, *Humphrey Earl of Lanesborough*, *Richard*
 “ Lord Viscount *Fitz-William*, Sir *William York*, then
 “ being Chancellor of the Court of Exchequer of the
 “ said Lord the King of his said Kingdom of *Ireland*,
 “ and the Chancellor of the said Lord the King of his
 “ Court of Exchequer for the time being, *Warden Flood*,
 “ then being Chief Justice of the Court of Chief Place
 “ of our said Lord the King, in his said Kingdom, and
 “ the Chief Justice of his said Court of Chief Place
 “ for the time being, *Richard Rigby*, then Master of the
 “ Rolls in the said Kingdom, and the Master of the Rolls
 “ in the said Kingdom for the time being, *Richard Aston*,
 “ then being Chief Justice of the Court of Common
 “ Pleas

“ Pleas of our said Lord the King in the said Kingdom
 “ and the Chief Justice of the Court of Common Pleas
 “ for the time being, *Edward Willis*, then being Chief
 “ Baron of the Court of Exchequer of the said Lord the
 “ King and the Chief Baron of the said Court of Ex-
 “ chequer for the time being, *Richard Mountney*, then
 “ being Second Baron of the said Court of Exchequer,
 “ *Arthur Dawson*, then being Third Baron of the said
 “ Court of Exchequer, *Robert French*, then being
 “ Second Justice of the said Court of Common Pleas,
 “ *Robert Marshall*, then being Third Justice of the said
 “ Court of Common Pleas, *Christopher Robinson*, then
 “ being Second Justice of the said Court of Chief Place,
 “ *William Scott*, then being Third Justice of the said
 “ Court of Chief Place; and the Justices of the said
 “ Courts of Chief Place, and Common Pleas, and the
 “ Barons of the said Court of Exchequer respectively,
 “ for the time being, and others in the said Letters named,
 “ to enquire by the oaths of good and lawful men
 “ of the said county of the city of *Dublin*, and by
 “ other ways, means and methods whereof the truth
 “ may the better be known as well within Liberties
 “ as without, of, all treasons, misprision of treason,
 “ insurrections, rebellions, counterfeits, clippings, wash-
 “ ings, unlawful coinings and other falsifying of mo-
 “ ney of Great Britain or other money current in the said
 “ kingdom of *Ireland* by proclamations, burnings and of
 “ all murders, felonies, manslaughters, killings, robberies,
 “ burglaries, perjuries, forgeries, rapes, unlawful assemblies,
 “ extortions, oppressions, riots, routs, crimes, contempts,
 “ deceits, injuries, escapes and other offences and causes
 “ whatsoever as well against the peace and common law of
 “ the said kingdom of *Ireland*, as against the form and
 “ effect of any statute, act ordinance or provision thereto-
 “ fore made, ordained or confirmed, by any person or
 “ persons within the said county of the city of *Dublin*, in
 “ any wise done, committed or perpetrated, or thereafter
 “ to be done committed or perpetrated, and of all acces-
 “ saries to the said offences, and every of them, within
 “ the said county of the city of *Dublin*, as well within
 “ liberties as without, by whomsoever and howsoever had,
 “ done, perpetrated or committed, by any person or per-
 “ sons, upon any person or persons, at any time howso-
 “ ever, and in any manner whatsoever, and that the said
 “ treasons,

" treasons, and other the premises, to hear, examine, dis-
 " cuss, try, finish, execute and determine according to
 " the laws and customs of the said kingdom of *Ireland*,
 " and to deliver the gaol of *Newgate*, in the county of the
 " said city of *Dublin*, of all the prisoners and malefactors
 " therein, as often as occasion should require. It is pre-
 " sented upon the oath of twelve good and lawful men of
 " the body of the said county of the city of *Dublin*, whose
 " names here follow, that is to say: Robert Powell,
 " Daniel Dickenson, James Mills, Andrew Callage,
 " Hall Lamb, James Blacker, Richard Wilson, William
 " Henry Archer, Joshua Manders, Robert Hanna, Francis
 " Hamilton, Mark Bloxham, Lewes Hodgson, John
 " Gorman, William Evans, Robert Newell, William
 " Lindsey, William Berry, John Duncan, William
 " Crombie, William Duncan, Richard Cranfield, Bladen
 " Sweny, in manner and form here following, that is to
 " say,

County of the City of } " THE Jurors of our Lord
 Dublin, to wit. } " the King upon their oath present
 " that an open and public war, on the 20th day of
 " *August*, in the thirty-fifth year of the reign of our
 " Sovereign Lord George the Third, by the Grace of
 " God, of Great Britain, France and *Ireland* King,
 " Defender of the Faith and soforth, and long before,
 " was and ever since hitherto by land and by sea, and yet
 " is carried on and prosecuted by the persons exercising
 " the powers of government in *France*, against our most
 " Serene, Illustrious, and Excellent Prince, our said
 " Lord the now King, and that *James Weldon*, of the
 " city of *Dublin*, Yeoman, in the said county of the
 " city of *Dublin*, a subject of our said Lord the King of
 " his Kingdom of *Ireland*, well knowing the premises
 " but not having the fear of God in his heart, nor weigh-
 " ing the duty of his allegiance, and being moved and
 " seduced by the instigation of the Devil, as a false
 " traitor of our said Lord the King, his supreme, true,
 " lawful, and undoubted Lord, the cordial love and true
 " obedience which every true and dutiful subject of our
 " said Sovereign Lord the King towards him our said
 " Lord the King should bear, wholly withdrawing and
 " contriving with all his strength, intending the peace
 " and common tranquility of this Kingdom of *Ireland*,
 " to

" to disturb and the government of our said Lord the
 " King of this his Kingdom of *Ireland* to subvert, and
 " our said Lord the King from the regal state, title,
 " honour, power, imperial crown and government of
 " this his Kingdom of *Ireland* to depose and deprive, and
 " our said Lord the King to death and final destruction
 " to bring, he the said *James Weldon*, on the 20th day of
 " *August*, in the thirty-fifth year of the reign of our said
 " Lord the King, and on divers other days and times, as
 " well before as after that day, at *Suffolk-street*, in the
 " parish of *St. Andrew* in the city of *Dublin*, and in the
 " county of the said city of *Dublin* aforesaid, with force
 " and arms, falsely, wickedly and traiterously did compass,
 " imagine and intend the said Lord the King, then and
 " there his supreme, true and lawful Lord of and from
 " the royal state, crown, title, power, and government
 " of this his realm of *Ireland* to depose and wholly deprive,
 " and the said Lord the King to kill and put to death, and
 " that to fulfill and bring to effect his most evil, wicked
 " and treasonable imaginations and compassings aforesaid,
 " he the said *James Weldon*, as such false traitor as afore-
 " said, and during the said war between our said Lord
 " King and the said persons exercising the powers of
 " government in *France*, to wit, on the said 20th
 " day of *August*, in the thirty-fifth year of the reign
 " aforesaid, at *Suffolk-street* aforesaid, in the parish afore-
 " said, and in the county of the city of *Dublin* aforesaid
 " with force and arms, falsely, maliciously and traiter-
 " ously, did join, unite and associate himself to and
 " with divers false traitors to the Jurors unknown,
 " and did then and there with such false traitors to the
 " Jurors aforesaid unknown, enter into and become one of
 " a party and society formed and associated under the
 " denomination of defenders, with design and for the
 " end and purpose of aiding, assisting and adhering to the
 " said persons so exercising the powers of government in
 " *France*, and so waging war as aforesaid, against our
 " said Sovereign Lord the now King, in case they should
 " invade or cause to be invaded this his kingdom of *Ire-*
 " *land*; and afterwards and during the said year, between
 " our said Lord the King, and the said persons, so exercising
 " the powers of government in *France*, and enemies of
 " our said Lord the King, on the 20th day of *August*,
 " in

“ in the said 35th year of the reign of our said Lord the
 “ King, and on divers other days, as well before as after
 “ that day, with force and arms at *Suffolk-street* aforesaid,
 “ in the parish of *St. Andrew* aforesaid, and county of the
 “ said city of *Dublin* aforesaid; he the said *James Weldon*
 “ as such false traitor as aforesaid, in further prosecution
 “ of his *treason* and traitorous purposes aforesaid, did with
 “ divers other false traitors, whose names are to the Ju-
 “ rors of our said Lord the King as yet unknown, then
 “ and there meet and assemble to confer, treat and
 “ consult for and about the adhering to, joining,
 “ aiding and assisting of the said persons exercising the
 “ powers of government in *France* as aforesaid, and being
 “ enemies of our said Lord the King as aforesaid, in case
 “ they should invade this his kingdom of *Ireland*, and af-
 “ terwards to wit, on the twentieth day of *August*, in the
 “ thirty-fifth year of the reign aforesaid, and on divers other
 “ days as well before as after that day, with force and arms
 “ at *Suffolk-street* aforesaid, in the parish of *Saint Andrew*
 “ aforesaid, in the city of *Dublin* aforesaid, and county of
 “ the city of *Dublin* aforesaid, the said *James Weldon*, as
 “ such false traitor as aforesaid, in further prosecution of
 “ his treason and traitorous purposes aforesaid, did then
 “ and there, with divers other false traitors, whose names
 “ to the said jurors are yet unknown, wickedly and trai-
 “ terously associate and unite himself to and with divers
 “ false traitors unknown to the jurors aforesaid, and did
 “ along with said false traitors to the jurors aforesaid
 “ unknown, enter into and become one of a party and
 “ society united and associated under the denomination of
 “ *Defenders*, with design and for the end and purpose of
 “ deposing, subverting and overturning the government of
 “ this kingdom as by law established, and so associated and
 “ united as aforesaid, did then and there, and on divers
 “ other days and times as well before as after that day, meet
 “ and assemble, to confer, consult and deliberate on and
 “ about the means and measures for effecting his aforesaid
 “ traitorous and nefarious designs and purposes. And af-
 “ terwards to wit, on the said twentieth day of *August*, in
 “ the said thirty-fifth year of the reign aforesaid, and on
 “ divers other days and times, as well before as after that
 “ day, with force and arms at *Suffolk-street* aforesaid, in the
 “ parish of *St. Andrew* aforesaid, and county of the city of

“ *Dublin* aforeſaid, the ſaid *James Weldon* as ſuch falſe trai-
 “ tor as aforeſaid, in further proſecution of his treaſon and
 “ traitorous purpoſes, did then and there, with divers other
 “ falſe traitors, whoſe names to the ſaid jurors are yet un-
 “ known, wickedly and traitorouſly aſſociate and unite
 “ with divers other falſe traitors, to the ſaid jurors as yet
 “ unknown, and did along with ſuch falſe traitors to the
 “ jurors aforeſaid unknown, enter into and become one of
 “ a party and ſociety, united and aſſociated under the de-
 “ nomination of Defenders, with deſign and for the end
 “ and purpoſe of ſubverting and overturning the proteſtant
 “ religion in this kingdom by law eſtabliſhed, and ſo aſſo-
 “ ciated and united as aforeſaid, did then and there, on di-
 “ vers other days and times as well before as after that day,
 “ meet and aſſemble with divers falſe traitors, to the jurors
 “ as yet unknown, confer, conſult and deliberate, on the
 “ means and meaſures for affecting his aforeſaid traitorous
 “ and nefarious deſign and purpoſes, and afterwards to wit,
 “ on the ſaid twentieth day of *Auguſt*, in the ſaid thirty-
 “ fifth year of the reign aforeſaid, and on divers other days
 “ as well before as after that day, with force and arms at
 “ *Suffolk-ſtreet* aforeſaid, in the pariſh of *St. Andrew* afore-
 “ ſaid, in the city of *Dublin* aforeſaid, and in the county
 “ of the city of *Dublin* aforeſaid, the ſaid *James Weldon* as
 “ ſuch falſe traitor as aforeſaid, in further proſecution of his
 “ treaſon and traitorous purpoſes aforeſaid, and then and
 “ there, with divers falſe traitors, whoſe names to the ſaid
 “ jurors are yet unknown, wickedly and traitorouſly, in
 “ in order to inliſt and procure one *William Lawler*, who
 “ aiding and aſſiſting to the ſaid perſons ſo exerciſing the
 “ powers of government in *France*, and enemies of our
 “ ſaid Lord the King as aforeſaid, in caſe they ſhould in-
 “ vade or cauſe to be invaded this his kingdom of *Ireland*,
 “ did then and there traitorouſly adminiſter an unlawful
 “ oath to the ſaid *William Lawler*, to the purport follow-
 “ ing, that is to ſay,—“ I am concerned.—So am I.—
 “ With who?—With the National Convention, (mean-
 “ ing thereby the National Convention of *France*.—What
 “ is your deſigns?—On freedom.—Where is your de-
 “ ſigns?—The foundation of it is grounded in a rock.—
 “ What is your deſigns?—Caſe to queal all nations, de-
 “ throne all ———gs, (meaning thereby all Kings,) to
 “ plant the true religion in the hearts, be juſt.—Where
 “ did the Cock crow when the whole world heard him?—

In

“ In France.—What is the pass word?—Eliphisinatis.”—
 “ And afterwards to wit, on the said twentieth day of
 “ *August*, in the thirty-fifth year of the reign aforesaid, and
 “ on divers other days, as well before as after that day,
 “ with force and arms at *Suffolk-street* aforesaid, in the pa-
 “ rish of *St. Andrew* aforesaid, in the city of *Dublin* afore-
 “ said, and county of the city of *Dublin* aforesaid, the said
 “ *James Weldon* as such false traitor as aforesaid, in further
 “ prosecution of his treason and traitorous purposes afore-
 “ said, did then and there, with divers other false traitors,
 “ whose names to the said jurors are yet unknown, wick-
 “ edly and traitorously, in order to enlist, corrupt and pro-
 “ cure one *William Lawler*, to be aiding and assisting to the
 “ said persons, so exercising the power of government in
 “ France, and enemies of our said Lord the King as
 “ aforesaid, in case they should invade, or cause to be in-
 “ vaded, this his kingdom of *Ireland*; and to bind and
 “ engage himself thereto, did then and there traitorously
 “ administer to and instruct the said *William Lawler*, to
 “ rehearse and repeat an oath, the said *James Weldon* hav-
 “ ing then and there, for that purpose sworn him the
 “ said *William Lawler*, a certain profession, declaration,
 “ and catechism to the purport following, that is to say;
 “ I am concerned. So am I.—With who?—With
 “ the National Convention,) (meaning thereby the Na-
 “ tional Convention of *France*.—What is your designs?
 “ —On freedom.—Where is your designs?—The
 “ foundation of it is grounded in a rock.—What is
 “ your designs?—Cause to quell all nations, and de-
 “ throne all ———gs, (meaning thereby all kings,)
 “ to plant the true religion in the hearts—be just.—
 “ Where did the cock crow when all the world heard him?
 “ —In France.—What is the pass word?—Eliphismatis.”
 “ And afterwards, to wit, on the said 20th day of *August*,
 “ in the said 35th year of the reign aforesaid, and on di-
 “ vers other days, as well before as after that day, with
 “ force and arms at *Suffolk-street* aforesaid, in the parish
 “ of *St. Andrew* aforesaid, in the city of *Dublin* aforesaid,
 “ and county of the city of *Dublin* aforesaid; the said
 “ *James Weldon* as such false traitor as aforesaid, in fur-
 “ ther prosecution of his treason and traitorous purposes
 “ aforesaid, did then and there with divers other false trai-
 “ tors, whose names are to the said Jurors as yet un-
 “ known; wickedly and traitorously in order to encour-
 “ age,

“ age, corrupt, procure and enlist the said *William Law-*
 “ *ler*, to become one of a party and society, formed for
 “ the purpose of subverting the government of this king-
 “ dom of *Ireland*, as by law established; did then and
 “ there traitorously, encourage, corrupt, procure and
 “ enlist the said *William Lawler* to join himself to and
 “ become one of a party or society formed and united for
 “ the purpose of subverting the government of the king-
 “ dom of *Ireland*, as by law established; and afterwards,
 “ to wit, on the 25th day of *August*, in the said 35th year
 “ of the reign aforesaid, and on divers other days, as well
 “ before as after that day, with force and arms, at
 “ *Suffolk-street* aforesaid, in the parish of *St. Andrew*
 “ aforesaid, in the city of *Dublin* aforesaid, and in the
 “ county of the city of *Dublin* aforesaid, the said *James*
 “ *Weldon* as such false traitor as aforesaid, in further
 “ prosecution of his treason and traitorous purposes aforesaid, did then and there with divers other false traitors
 “ whose names to the said jurors are yet unknown,
 “ wickedly and traitorously, in order to enlist and procure
 “ one *William Lawler* to be aiding and assisting to the
 “ persons exercising the powers of government in *France*,
 “ and enemies of our said Lord King as aforesaid, in
 “ case they should invade or cause to be invaded this
 “ his Kingdom of *Ireland*, did then and there,
 “ traitorously administer an unlawful oath to the said
 “ *William Lawler*, to the purport following, that is say,
 “ —“ I *William Lawler*, of my own goodwill and con-
 “ sent, do swear to be true to his Majesty King George
 “ the Third, whilst I live under the same government—
 “ More, I swear to be true, aiding and assistant to every
 “ brother bound to me by this application, and in every
 “ form of article from its first foundation, *January 1790*,
 “ —And in every amendment hitherto—And will be
 “ obedient to my committees, superior commanders, and
 “ officers, in all lawful proceedings and not otherwise,
 “ nor will I consent to any society or any brother of an
 “ unlawful character, but will observe and obey the laws
 “ and regulations of my committee to whom I belong
 “ determined brother, nor in any violation of the laws,
 “ but to protect my life and property, and the lives and
 “ properties of my brothers—And I will subject myself
 “ to my committee-men in all lawful proceedings and not
 “ otherwise, during the reign of his Majesty King George
 “ the

“ the Third, whilst I live under the same government
 “ —I likewise swear I will meet when and where my
 “ committee will please, and will spend what is pleasing
 “ to president and company—I will not quarrel nor
 “ strike any person whatsoever, knowing him to be
 “ such, but will live lovingly and friendly with every one
 “ under that denomination—I will not rise any fight or
 “ quarrel on account of my present intrus, or back that
 “ for unto my brotherhood.” * And the said jurors of our
 “ said Lord the King upon their oath further present,
 “ that an open and public war on the said 20th day of
 “ *August*, in the thirty-fifth year of the reign of
 “ our said Lord George the Third and soforth, and
 “ long before and ever since hitherto by land and by
 “ sea, hath been and is carried on and prosecuted by the
 “ said persons exercising the powers of government in
 “ *France*, against our most serene, illustrious and excel-
 “ lent prince *George* the Third, now King of *Ireland*, and
 “ soforth. And that the said *James Weldon* a subject of
 “ our said Lord the King of his kingdom of *Ireland*, well
 “ knowing the premises, not having the fear of God in
 “ his heart, nor weighing the duty of his allegiance, but
 “ being moved and seduced by the instigation of the Devil,
 “ as a false traitor against our most serene and illustrious
 “ and excellent prince *George* the Third, now King of
 “ *Ireland*, and soforth; and contriving, and with all his
 “ strength intending the peace of this his kingdom of
 “ *Ireland* to disturb, and the government of this his king-
 “ dom of *Ireland* to subvert, he the said *James Weldon*,
 “ on the 20th day of *August*, in the thirty-fifth year of the
 “ reign of our said Lord the now King, and on divers
 “ other days and times as well before as after that day,
 “ with force and arms at *Suffolk-street* aforesaid, in the
 “ parish of *St. Andrew* aforesaid, in the city of *Dublin*
 “ aforesaid, and county of the said city of *Dublin* aforesaid,
 “ unlawfully and traitorously was adhering to, aiding and
 “ comforting the persons exercising the powers of govern-
 “ ment in *France*, and being enemies of our said Lord the
 “ King as aforesaid, and that in the prosecution, perform-
 “ ance and execution of the said traitorous adhering of
 “ him the said *James Weldon* to the persons exercising the
 “ powers of government in *France*, and being enemies of
 “ our said Lord the present King, to wit, on the said 20th
 “ day of *August*, in the said thirty-fifth year of the reign
 aforesaid,

* Second Count.

“ aforeſaid, at *Suffolk-ſtreet* aforeſaid, in the pariſh aforeſaid,
 “ and in the county of the city of *Dublin* aforeſaid, with
 “ force and arms falſely, maliciously and traitorouſly did
 “ join, unite and aſſociate himſelf to and with divers falſe
 “ traitors to the jurors as yet unknown, and did then and
 “ there with ſuch falſe traitors to the jurors aforeſaid as yet
 “ unknown, enter into and become one of a party and
 “ ſociety formed and aſſociated under the denomination of
 “ Defenders, with deſign and for the purpoſe of aiding,
 “ aſſiſting and adhering to the ſaid perſons ſo exerciſing the
 “ powers of government in *France*, and ſo waging war as
 “ aforeſaid with our ſaid Sovereign Lord the now King, in
 “ caſe they ſhould invade or cauſe to be invaded this his
 “ kingdom of *Ireland*, and afterwards and during the ſaid
 “ war between our ſaid Lord the King and the ſaid perſons
 “ ſo exerciſing the powers of government in *France*, and
 “ enemies of our ſaid Lord the King, on the 20th day of
 “ *Auguſt*, in the ſaid thirty-fifth year of the reign of our
 “ ſaid Lord the King, and on divers other days as well
 “ before as after that day, with force and arms at *Suffolk-
 “ ſtreet* aforeſaid, in the pariſh of *St. Andrew* aforeſaid, and
 “ county of the ſaid city of *Dublin* aforeſaid, he the ſaid
 “ *James Weldon* as ſuch falſe traitor as aforeſaid, in further
 “ proſecution of his treason and traitorous purpoſes afore-
 “ ſaid, did with divers other falſe traitors whoſe names are
 “ to the jurors of our ſaid Lord the King as yet unknown,
 “ then and there meet and aſſemble to confer, treat and
 “ conſult for and about the adhering to, joining, aiding
 “ and aſſiſting of the ſaid perſons exerciſing the powers of
 “ government in *France* as aforeſaid, and being enemies
 “ of our ſaid Lord the King as aforeſaid, in caſe they
 “ ſhould invade or cauſe to be invaded this his kingdom of
 “ *Ireland*.”

The ſame overt acts were ſtated in ſupport of the ſecond
 count, and in the ſame manner as ſet forth in the firſt.—
 The indictment concluded in this way—“ againſt the duty
 of the allegiance of the ſaid *James Weldon*, againſt the
 peace of our ſaid Lord the King, his crown and dignity,
 and againſt the form of the ſtatute in ſuch caſe made and
 provided.”

Clerk of the Crown. How ſay you, *James Weldon*, are
 you guilty of this treason in manner and form as you ſtand
 indicted and arraigned or not?

Mr.

Mr. *McNally*. My Lords, I submit to your Lordships that this indictment must be quashed, the caption annexed to it, being illegal both as to form and substance. The first error that appears upon the face of the caption, is that it lays no *venue*; it does not shew whether the bill was found by the Grand Jury of the city or the county of *Dublin*. I am aware that by a statute this court is taken to be in the city and the county. Locally it is in the county of *Dublin*; artificially it is in either; but the caption does not set forth any county in the margin: if it did, I admit it might be unnecessary to repeat that county in the caption; but all that is stated in the body of the caption is, "the place where *King's Bench* usually sits" without averring it to be in the city of *Dublin* where the offence is supposed to be committed. 2dly. The caption states an *adjournment* of a session, but does not state when the original session began, *Str.* 865. 2 *Hawk.* 362. 3dly. It does not state that the Grand Jury were *sworn and charged*, 4 *Bl. Com.* *Fost.* 4. 2 *Hal. P. C.* 167. s. 6. 9. — The caption states that it is presented upon the oath of *twelve men* that is say, and it sets out the names of *twenty-three*; this is repugnant, for the latter part is contradictory to the former. 4thly. The caption does not state the additions of the Jurors; the precedent in the appendix to 4 *Bl. Com.* states the foreman to be a *Baronet* and the rest are *Esquires*. The necessity of the addition is obvious; it is to ascertain the identity of the Grand Juror, for many objections may lie against him, he might be an outlaw, convicted of treason or felony and consequently disabled from serving upon a Grand Jury.

Mr. *Attorney General* rose to answer these objections, but was stopped by the Court.

Mr. *Justice CHAMBERLAIN*. The court do not think the objections founded. It is taken for granted, that the caption is part of the indictment: it is not: — it is only the stile of the court, and where captions have been quashed, it has been upon *certiorari*, or writ of error.

The prisoner then pleaded in abatement—"And the said *James Weldon* says, that he is not a *Yeoman*, but a "a soldier in his Majesty's 7th regiment of dragoons."

Mr. *Attorney General*. I demur to this plea.

Mr. *Justice CHAMBERLAIN*. Then you admit that he is not a *Yeoman*.

Mr.

Mr. Attorney General. Is the plea so, my Lord? I had misconceived it.

Then the plea was read, and after some conference among the counsel for the Crown, *Mr. Attorney General* replied, and averred "that the prisoner is a *Yeoman*, and "this he prayed might be tried by the country;—The counsel for the prisoner joined the *similiter*—" And the "said *James Weldon* doth so likewise."

COURT. You pray the usual process.

Counsel on both sides said, certainly; and the *Attorney General* prayed that a jury might be returned *instantly*.

It then became a question, to what time the plea related?—whether it meant, that he was a soldier at the time when the plea was put in—or at the time when the indictment was found?

Mr. Curran. The meaning of the plea is, that the prisoner never was a *yeoman*, either at the time of his arrest, the time the indictment was taken, or at this day. It is a sort of objection to the identity, that he is not the man presented by the Grand Inquest as a *yeoman*, for he is a soldier.

A pannel was then returned by the sheriff and twelve persons were sworn to try the issue, whether the prisoner be a *yeoman*.

Mr. Attorney General. Gentlemen of the jury. The prisoner is indicted for high treason, and he is described in the indictment as a *yeoman*, an issue is now joined upon that description and if it be found for him, the indictment must be quashed. The law requires, that an indictment must set forth what a party is; the prisoner is described as a *yeoman*; we shall produce a witness to shew what he is, and you will determine whether he be a *yeoman*, or not. The objection is as frivolous as can be conceived; it is a disgrace to justice that such objections are allowed, and I say this to shew you that if there be any doubt in the case, you will lean against the plea. What was the meaning of the word *yeoman* 100 years ago, or what was the meaning of the Saxon word *geomman*, is not now the subject of enquiry. We will shew that the prisoner is a soldier in a regiment of horse; and the words *yeoman* and *labourer* have been applied indifferently as sufficient descriptions of persons in his situation. The counsel for the prisoner may shew from black letter books, what was the meaning of the word *yeoman* many years ago; but it is sufficient to describe a man to a com-

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mon intent, and in the known use of words at the time of the indictment found. The word *yeoman* is applied to many different situations, as a person having land and entitled to serve upon a jury. If that be the appropriated meaning, it has not been so taken lately. There are *yeomen* of the King's guards—so are the attendants upon the Lord Lieutenant's person, and a variety of others in different situations. Therefore the insignificant word cannot be now made a ground of objection, this man being described with sufficient particularity. An objection might be made to a description of a man as one kind of artificer, when in truth he was of another, but the same objection cannot be made to the words *yeoman* or *labourer*.

TRESHAM GREGG, *sworn*.

Examined by the PRIME SERJEANT.

Q. Are you gaoler of Newgate?

A. I am.

Q. Do you know the prisoner?

A. I know the prisoner, *James Weldon*, since he was committed to gaol.

Q. How long since is that?

A. About a month.

Q. Had you any conversation with him?

A. I asked him, what business he was of. He said he was a breeches-maker from the county of *Meath*, but that he had been a soldier for two years; that he was a soldier in the Black Horse and was taken in *Cork*.

Cross examined by Mr. CURRAN.

Q. By virtue of your oath, do you know what a *yeoman* is?

A. I do not.

Mr. Curran Then you may go down, and enquire before you come to prove that a prisoner is a *yeoman*.

Here the evidence closed.

Mr. Curran. Gentlemen of the jury. The law requires that there should be a determinate degree of certainty in the specification, not only of every *crime*, with which
D any

any man is charged, but also of the *person* charged; and it is not for us to say, that any certainty which may be required in favour of life, or any objection permitted by the law, is frivolous, or disgraceful to the jurisprudence of the country. It is a known fact, that the certainty of description which has been adhered to in this country, has been departed from in a neighbouring country, and hundreds of innocent persons have perished for want of it. This man is indicted as a *yeoman* and if you have any doubt upon the case, the uniform principle of the law is, that in such case you should lean in favour of the prisoner. But gentlemen, there is no doubt in the case:—your oath is, to try whether this man be a *yeoman*. Our society is divided into different degrees, and the inferior orders with regard to one another, and the peers who are above them have correlative appellations. The name of *yeoman* is a known and defined name. It is not to black letter that I shall refer the Court, or to books that are as little known as the pronunciation of the word; but to the commentaries of Judge *Blackstone*, who has not written many years ago. 1 *Bl. Com.* 406. “A *yeoman* is he that hath free land of forty shillings by the year; who was anciently thereby qualified to serve on juries, vote for knights of the shire, and do any other act, where the law requires one, that is *probus & legalis homo*.”—He adds in the ensuing paragraph, “the rest of the commonality are *tradesmen*, *artificers* and *labourers*; who (as well as all others) must in pursuance of the statute 1 *Hen. 5. c. 5.* be stiled by the name and addition of their estate, degree, or mystery, and the place to which they belong, or where they have been conversant, in all original writs of actions, personal appeals and *indictments*, upon which process of outlawry may be awarded; in order as it should seem, to prevent any clandestine, or mistaken outlawry, by reducing to a *specific certainty* the person who is the objects of its process.” Thus distinguishing the man of property in land, from those who earn money by trades, as a tradesman or artificer, who must be described by their degree, or mystery. From this respectable authority and the plain sense of the case, the jury will find for the prisoner. You are not to calculate consequences. If the man is entitled to the benefit of the objection, you are sworn to give it to him, and you are not to depart from that oath upon being told, that the objection is frivolous, or disgraceful to justice.

Mr.

Mr. Justice CHAMBERLAIN. I wish that counsel in speaking to this point, would argue, whether we are to advise the jury upon the common acceptation of the word, or whether we are bound by the strict letter of the law?

Mr. Baron GEORGE. *Shakespeare* seems to have considered a *soldier* synonymous with *yeoman*, and Dr. *Johnson* in his 2d definition of the word, says, "it seems to have been anciently a kind of ceremonious title given to soldiers; whence we have still *yeomen* of the guard."

"Tall *yeomen* seemed they and of great might,
"And were enraged ready still for fight.

SPENSER.

"Whose limbs were made in *England* shew us here,
"The mettle of your pasture."

SHAKESPEARE, *Hen. 5.*

Mr. Prime Serjeant. My Lords, *yeoman* is at this day the general description of a man who is not a gentleman, or an Esq; for if a man has acquired no addition from his mystery, trade, or craft, he is a *yeoman*. The rules of law must adapt themselves to the growing occasions of the times, and that man will be effectually described as a *yeoman*, who has acquired no other addition, by which he could be discriminated. In common reason, it is to be considered as the general description of a man, who has not acquired any other. A *soldier* most unquestionably cannot be a description under which a man could be indicted. *Burgess* is not a good description — nor is *citizen*, nor *servant*; neither can a *soldier*, because it is not general enough upon which to arraign a man.

Mr. Solicitor General. The single question is, whether under the statute of additions, 1 *Hen. 5.* this description be sufficient? — The authority of *Shakespeare* and *Johnson* is decisive to shew, that a *soldier* is a *yeoman*. 2 *Inst.* 668. If a man be named a *yeoman*, he cannot abate the writ. — Is this such a name as the prisoner may be known by? — He has given no evidence of his being of any art, or mystery, and it is impossible for those concerned for the Crown to know in all cases, the true art, or mystery of a person accused. Before the statute of *Hen. 5.* no description was necessary, and it was enacted to remove objections made in outlawries.

outlawries. But where a party is forthcoming, the argument is done away. *Yeoman* is a generic term, including many degrees, and is fully sufficient to answer the intention of the statute.

Mr. *Saurin*, same side. This plea is founded upon the statute of additions, by which it was provided that persons indicted, should be described either by their *state* and *degree*, or by their *mystery*, or *trade*; if they were of any mystery or trade. Ever since the statutes was enacted, it has been in the option of the prosecutor to describe the person accused by his *rank*, or his *trade*; it is not necessary to describe him by both. From Lord *Coke's* argument upon the statute it appears that *state* or *degree* mean one and the same thing; "The *state* or *degree* wherein a subject standeth." There are many persons who have no trade and who must be described by some rank. A soldier is no trade, and he stands in the nature of a *servant* taken into the pay of the crown, and does not come within the description of *mystery*, or *trade*—a servant is not of any mystery or trade. See then the alternative offered to the prosecutor. Where a party has no trade, or mystery, he must be described by his *state* or *degree* in the community. What are they—If under the rank of Nobility, they are divided into Baronets, Knights, Esquires, Gentlemen and Yeomen, and there is no other description under the rank of nobility by which he could be described. Here we have shewn that this man was not of a trade by which he could be described, and therefore he must be described by his rank and condition, that is, a *Yeoman*, and if he be not a *Yeoman*; of what other rank is he. A *Yeoman* is the lowest rank in the community. Between *gentleman* and *yeoman*, there is not a clear line of distinction, by which a gentleman could plead in abatement, if indicted as a *yeoman*. In confirmation of this, I appeal to the uniform usage for many years, during which numbers have been described as *yeomen*, where they were not of higher rank in the community. Therefore I submit, that it is incumbent upon your Lordships to inform the jury, that upon the evidence, the *rank* of this man is not higher than that of a *yeoman*; that there is sufficient evidence to shew that he is of that inferior rank, and no evidence to shew he is of any higher.

Mr.

Mr. Justice CHAMBERLAIN. Is there any precedent of an indictment, describing a man as a soldier?

Mr. Justice FINUCANE. It appears from *Kelyng*, that *sailor* is a good addition, and *Hawkins* in explaining the word *mystery*, says, art, trade, or occupation.

Mr. Kells and Mr. Ruxton said a few words on the part of the prosecution. There being no precedent of an indictment against a man, as a *soldier*, was a strong argument to shew it was no good addition, and as to *sailor*, it may be observed, that it is a sort of mystery, for sailors serve a regular apprenticeship.

Mr. Justice CHAMBERLAIN. The inclination of some of the court, indeed I may say it is, at present, the opinion of all the court, that *yeoman* within the common acceptance of the word, is a sufficient description of the person:—We mean to tell the jury so, and after that to adjourn the court, and take the opinion of all the judges this evening; and in case we should be wrong in the opinion now given, we shall take their advice how to proceed.

Gentlemen of the Jury. The issue you are to decide upon is—Whether the prisoner is a *yeoman* according to the strict legal definition of the word?—Upon the authority of Judge *Blackstone*, who is certainly a very high authority in the law, the prisoner does not appear to be a *Yeoman*. But according to the best writers in the *English* language, he is a *Yeoman*. “It seems to have been an ancient kind of ceremonious title given to *soldiers*, *yeomen* of the guard.” Our present opinion is, that entitling the prisoner by a general title of courtesy is sufficient within the statute of additions—All society is divided into Peers, Baronets, Knights, Esquires, Gentlemen, and *Yeomen*, tradesmen, and artificers. At the time of finding this indictment, which is the material time for you to attend to, the prisoner was not an artificer. He had been bred a breeches-maker, but two years before he had given up that and became a soldier, so that, at the time of finding the bill, he could not be entitled a tradesman, or artificer, nor a Gentleman, nor an Esquire. Therefore under the common acceptance of the word, I think him sufficiently described, and I am strongly fortified by this circumstance, that no precedent is produced where a man is described as a *soldier* in an indictment. There may be a reason

reason for sailors, because they serve an apprenticeship. Upon the best English authorities, *yeoman* is a title of courtesy. If we are wrong in this opinion, we shall be set right by the Judges, who will be summoned this evening.

The jury retired and after some deliberation, brought in a verdict, that the Prisoner is a *yeoman*.

The court immediately adjourned.

Tuesday, Dec. 22d. 1795.

Mr. Justice CHAMBERLAIN. We are to inform the prisoner and his counsel, that nine of the Judges met at Lord CLONMELL's, and they were unanimously of opinion, that the direction given to the jury was right.

The prisoner then pleaded, *Not Guilty*.

The Sheriffs returned the pannel, which was called over in the following order :

Sir *Edward Crofton*, Bart. Sworn.

Sir *James Bond*, Bart. Challenged peremptorily by the prisoner,

William Bury, Esq. Sworn.

Hugh Carncross, Esq. Challenged peremptorily by the prisoner.

William Cope, Esq. Sworn.

Meredith Jenkin, Esq. Challenged peremptorily by the prisoner.

Morgan Crofton, Esq. Sworn.

Rawdon Hautenville, Esq. Sworn.

Thomas Howison, Esq. Set by on the part of the Crown.

Samuel Middleton, Esq. Challenged peremptorily by the prisoner.

Thomas Read, Merchant. Sworn.

William Sparrow, Merchant. Sworn.

Joseph Dickinson, Esq. Challenged peremptorily by the prisoner.

James French, Esq. Sworn.

William Galway, Merchant. Challenged peremptorily by the prisoner.

Isaac Maunders, Merchant. Challenged peremptorily by the prisoner.

John

John Minchin, Merchant. Challenged peremptorily by the prisoner.

Simon Verpoyle, Merchant. Challenged peremptorily by the prisoner.

Charles Henry Sirr, Esq. Challenged peremptorily by the prisoner.

Ralph Mulhern, Merchant. Sworn.

Mead Nesbitt, Merchant. Set by on the part of the Crown.

Henry Pettigrew, Merchant. Sworn.

Thomas Prentice, Merchant. Set by on the part of the Crown.

Thomas Wilkinson, Merchant. Set by on the part of the Crown.

William Blair, Merchant. Sworn.

Thomas Palmer, Merchant. Challenged peremptorily by the prisoner.

Goodwin Pillsworth, Merchant. Set by on the part of the Crown.

George Carleton, Merchant. Challenged peremptorily by the prisoner.

John Smith, Merchant. Sworn.

THE JURY.

Sir Edward Crofton, Bart.	William Sparrow, Mercht.
William Bury, Esq.	James French, Mercht.
William Cope, Esq.	Ralph Mulhern, Mercht.
Morgan Crofton, Esq.	Henry Pettigrew, Mercht.
Rawden Hautenville, Esq.	William Blair, Mercht.
Thomas Read, Mercht.	John Smith, Mercht.

The prisoner was then given in charge to the Jury by the Clerk of the Crown, who read the whole indictment.

Mr. Ruxton opened the pleadings.

Mr. Attorney General. My Lords, and Gentlemen of the Jury. In this case it will not be necessary for me to do more than state the several circumstances which may be material to explain the evidence that will be produced; and even this statement is rendered necessary rather from the importance of the case, than any difficulty, which will occur.

occur. Were I to follow my own discretion, the case is so simple as to need no statement, but merely to produce the witnesses upon the table. Gentlemen, the prisoner stands charged with the highest crime known to the law; the indictment states two species of that crime, *1st.* compassing and imagining the death of the King:—*2dly.* with adhering to the enemies of the King. Gentlemen, the charge of compassing the death of the King, it may be necessary to explain in a few words; very few I shall use, because it will be the duty of the court to explain to you, the law upon that subject; therefore I shall only say so much as will enable your minds to apply the evidence to the charge stated in the indictment. The law has made it a capital offence to compass, or imagine the death of the King. Our mild laws, Gentlemen, make the imagination of no other offence penal;—the crime must be committed in every other case. But the person of the King is sacred: So much depends upon his life, that for the sake of the public, their tranquility, the preservation of their lives and properties, the law has guarded the life of the King in a peculiar manner. Any act, that in its nature tends to bring the life of the sovereign into danger, will support the charge of compassing his death. It is not necessary, that the party accused shall have entertained the design of putting the King to actual death—of depriving him of life:—It is sufficient in the eye of the law, if the man has determined to act in such a manner as to bring that to pass. As to levy war—to change the government, which cannot be undertaken without hazarding the King's life—to bring war upon the kingdom must expose his life; and even though the party had in his own mind predetermined, not to put the King to death, yet, if he does those acts, which endanger his life, he is guilty. But, Gentlemen, the law, which is thus careful of the Sovereign's life, guards with equal care the lives of the subjects, who may be accused of intending to commit such a crime. Though the law makes the imagining the King's death a crime, yet it takes care that it shall be proved by such circumstances as evince the fact of the intention. There must be what is called an *overt act* stated upon the indictment; and that overt act must be proved, from whence it can be collected, that the design was taken to compass and imagine the King's death.

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The other species of treason with which the prisoner is charged, is adhering to the enemies of the King—to persons in a state of war with these realms. Gentlemen, it is needless to say any thing in explaining the nature of this crime:—it speaks itself. These, Gentlemen, are the two charges, that he did compass the King's death—that he adhered to the King's enemies. Adhering to the King's enemies is evidence also of the compassing of the death of the King; because it is impossible to adhere to the enemies of the King without exposing that sacred life to danger. Gentlemen, I shall state the overt acts which are to support these charges. There are eight of them. If any one of them be proved, and the inference be drawn from it, which the indictment charges, though there be no evidence of the other seven, the prisoner must be found guilty. The first overt act states, that he associated with divers traitors unknown, and became one of a party under the denomination of *Defenders* for the purpose of assisting and adhering to the persons exercising the powers of government in *France*. The second is, that he assembled with others to consult about adhering to the *French*. Thirdly, that he associated with persons called *Defenders* for the purpose of overturning the government of this kingdom as by law established. The fourth overt act is that he united with *Defenders* for the purpose of overturning the Protestant religion. Fifthly, That he enlisted one *William Lawler* to aid the persons exercising the powers of government in *France*, and administered to him an oath, upon which I shall presently make some observations. Sixth overt act states, that he enlisted *Lawler* to adhere to the *French*, should they invade this kingdom, and that he administered a catechism for that purpose. The seventh is, that he enlisted, corrupted and procured *Lawler* to become one of a party formed for the purpose of subverting the government. Eighth, that he enlisted him for the purpose of overturning the Protestant religion. Such, Gentlemen, are the facts to be proved against the prisoner at the bar. I have stated the outlines of them. Some, or one of them must be proved, to sustain the charge. The same overt acts are laid as applicable to each of the species of treason charged against the prisoner.

Gentlemen, having stated, thus briefly, the charge and the nature of it, it becomes my duty to state the evidence that will be produced to sustain that charge. Before, how-

ever, I enter into the particulars of that evidence, it may not be improper to call to your recollection the state of things in this country at the time this offence is alleged to have been committed. In doing this, Gentlemen, I shall state what is a notorious historical fact—what cannot be excluded from your minds—every man in the community must be impressed with it.—For some years there have existed in this country, a number of persons, associated for wicked, and atrocious purposes, stiling themselves “*Defenders*.” They have from time to time for the last four or five years infested almost every part of this, in that respect, unhappy country. It has appeared in various trials in the different provinces, what the nature of the association of those wretches is:—it has appeared with what designs they associated, and though those who excited them have not appeared to public view, yet the manner of exciting them, and the object are but too plain. Since the year 1790, there have appeared in many counties, particularly in the Northern, Eastern and Western counties, many persons under the denomination of *Defenders*, committing various outrages, and who have directed their attempts most particularly to disarm their fellow subjects. It has appeared in every investigation of this offence, that there have been in various counties, a number of persons, calling themselves “*Committee Men*,” who have guided the wretches, they had deluded, directed their actions, and prescribed their movements;—pointed out the different courses they were to take, and administered oaths, “to be true and faithful to the *Committee Men*,”—“to obey the laws of the Committee in all things,”—and these oaths they have guarded with such equivocations, that while they bound the parties to the commission of the most atrocious crimes, the oath should appear to be merely an oath of allegiance to the King, and submission to the laws of the country. These Committees have existed in many counties of the kingdom, associating the lower orders of the people, by holding out promises to seduce uneducated men;—telling the poor that they would enjoy the property of the rich; that they were no longer to exist by their industry, and representing what they knew must be impossible, that all men were equal. If it were possible that such equality could be effected, the consequence would be the subversion of all government, and that all would be reduced to a savage state.—Such, Gentlemen, were the topics held out. In other places they propagated

propagated different things—and they dared to use the sacred name of religion, having no religion themselves, to forward the purposes of their wicked imposition. It has appeared in too many instances, and I am shocked while I state it, that these miscreants endeavoured to instil hatred and animosity into the minds of their converts against their fellow christians, though differing in some speculative points, professing the same religion, worshipping the same God, and seeking redemption through the same Jesus Christ.—They represented, that their Protestant Brethren were to be destroyed; and this they attempted at a time when the Legislature has been session after session, endeavouring to put them upon a footing with themselves; to do away differences and to put an end to distrust.—While I say this, Gentlemen, let no man imagine, that we mean to impute any thing of this kind to the general body professing the Roman Catholic religion. No, Gentlemen, we attribute these abominable practices to others, who are seeking their own impious views.—It is a subject so abhorrent to my nature, that I would not have mentioned it, but that it must come out in evidence; for I would not suffer a word to escape my lips, that would tend to divide those, who are bound to that law, and that government which we all enjoy. The conduct of the Committee Men is historically known; it is proved in *Connaught*, it is proved in several counties of the *North* and in *Leinster*; and it is wonderful, that I have seen circumstances proved in the most distant parts of the West, corresponding with circumstances arising in the distant parts of the North and East—manifesting most clearly, that there was an united scheme to subvert the religion and the government of the country, by exciting sedition among the lower orders of the people. How these schemes were set on foot so universally, whether by *French* gold, or democratic clubs, is neither for you, Gentlemen, nor me now to enquire—whether by the *United Society of Dublin*, or *Belfast*, I will not trouble you at present with taking notice, or enquiring. I only wish to impress upon your minds, that it is a fact historically known, that there does exist in the country such a scheme of rebellion and insurrection.—Further to forward this plan, they have levied money from the poor wretches they seduced. A man sworn pays a shilling to the person administering the oath. The Committee Man receives the shilling, and if he swear many, the consequence is, a considerable income. In fact,
the

the practice became common, and they spoke of a Committee Man in a village as they would of a shoe maker. "Where are you going?"—"To the Defender-Maker."—And to that Defender Maker the person paid a shilling, as if he had obtained something valuable.

So far, Gentlemen, it is necessary I should state these facts to you. I hope in doing so, I do not overpass my duty. I do not mean to rouse your passions upon this subject; and if I did, I could not. The statement I have made cannot affect the prisoner, unless it be proved that he is such a man as is charged by the indictment, and it was necessary to state what I have, that you might understand the dangers and proceedings of the *Defenders*, which will be proved in evidence.

Gentlemen, the crime with which the prisoner is charged, is of the most awful nature in its consequences both to him, and to the public. The charge is this, that the man at the bar is guilty of a crime, the end and object of which was the destruction of the government under which we live—the destruction of the life and liberty of every man living under it—the destruction of our laws, which have been the envy of every one for seven hundred years. But this crime is greatly aggravated, if it be capable of aggravation, by the peculiar situation in which the prisoner stood. The prisoner at the bar was at the time the offence was committed, a Dragoon serving his Majesty in the 7th Regiment of Guards, then in this city—placed in a situation to defend his country—sworn in the presence of God, for whom he seems to entertain a profound reverence, to defend his King and Country. Such is the man, upon whose life your verdict is now to pass. Gentlemen having stated the situation in which he was placed, and the duty he particularly owed to his King and Country—having stated that he had solemnly sanctioned that Duty in the presence of his God, it is the less probable, that he should commit the crime. If however he shall have committed the crime, then he will be less an object of mercy. Gentlemen, it will be proved, that this man administered an oath to a person of the name of *William Lawler*, which oath went to bind that person to be a *Defender*;—and now having mentioned the name of the person, who is the witness for the prosecution upon this trial. I shall state to you the nature of the evidence he is

to

to give; and the manner in which the Crown became acquainted with the designs of the conspirators.

William Lawler, the witness, is a native of this city; he is by trade a guilder; served a regular apprenticeship to that trade—after which he practised at it for some time in this city, and then went to *London* where his father had removed. There he had the misfortune, and it is common to others as well as him, to read the words of that celebrated apostle *Mr. Paine*—to have his imagination somewhat heated by his writings, and he became a member of the *London Corresponding Society*, associated to improve our constitution. There his principles were not much improved; he returned to *Dublin*, and become a member of a reading society:—it was called the *Telegraphie Society*; and also of another society of an admirable name, if it imported nothing more; that was the *Philanthropic Society*, where there were readings, and instructions, which if followed would have left the jury no constitution, no law, upon which to hear the Attorney General state a case in the court of *King's Bench*. In that society they received instructions from *Mr. Burke*, now a fugitive in *America*.—The *Defenders* having broke out with unusual violence last summer, approached the capital, and began to disturb the outlets of the city. *Lawler*, a member of the society, and a republican, desirous enough (I will not attempt to conceal it) of disturbance was asked by some of the associates, or a discourse arose among them, *Kennedy*, *Brady*, *Hart*, and others, touching the *Defenders*. However the subject was first introduced, it was proposed, that *Lawler* should become a *Defender*, and for that purpose, some of these excellent clubbists (he will inform you who they were) proposed bringing him to the prisoner, then quartered in *Dublin*. Accordingly *Lawler* was brought by two persons of the names of *Kennedy* and *Brady*, to the prisoner, opposite the *Barrack-gate*, where the prisoner, *Weldon* was:—they sat for some time together. *Weldon* was then quartered in the *Barrack*, but had a lodging within a door or two of an ale-house. *Kennedy* and *Brady* bring *Lawler* to this lodging; after they had sat some time drinking punch, one *Clayton* came in, and they proposed to swear *Clayton* and *Lawler*. Accordingly they were sworn by the prisoner at the bar, and upon being sworn, they paid their shilling a piece. A discourse arose, after the swearing, touching the object and nature of the *Defender's* pursuits, and in the

the course of that conversation, the prisoner did avow, that there would shortly be a rising in the *North*, which would be joined by a person, whose name *Weldon* did not disclose—a rising to effect by force the purposes of these associated *Defenders*—and the other persons, *Kennedy* and *Brady* did unite in declarations of that sort. It will appear to you, Gentlemen, that being thus united *Defenders*, *Lawler* was brought to three different meetings, where *Defenders* were assembled, particularly at a public house in *Plunket street*—there were eighteen or nineteen together, and there a discourse arose, and a proposition was made, for buying powder and procuring arms, for the purpose of rising to seize the Castle of *Dublin*, of seducing the army from their duty, and by terrifying the good, industrious citizens of this town into a belief that the army had betrayed them, they might be put into the possession and under the government of miscreants such as these.

Such, Gentlemen, are the facts, or pretty nearly (for I do not pretend to say they are precisely) such as will appear in evidence. I will now state the oath administered to *Lawler* by the prisoner to whom he had been brought by *Kennedy* and *Brady*. The oath was this “I *William Lawler* of my own goodwill, and consent, do swear to “be true to his Majesty King George the Third.”—The oath which the prisoner himself had taken, but with a little addition to it, well worthy your attention, because it appears to me that what was designed to cover the guilt, is, if I understand it, the strongest manifestation of it. “I will be true, *while I live under the same government*”—The first part is an oath of allegiance, but not that of *remaining* under his government; implicative, demonstrably, of a design to *change* the government:—it is not limited to the life of the King—but while the government remains, and when the oath was administered, the prisoner explained it, knowing that the object was to appear to be taking an oath of allegiance, while he was intending to destroy the King—This, said he, is put in to deceive the army, that they may not discover the consequences. “I “swear to be true, aiding and assisting to every free “brother”—that is a name for a *Defender* known among themselves—“And in every form of article from the first “foundation 1790, and every amendment hitherto, and “will be obedient to my committees, superior commanders, and officers, in all lawful proceedings and not “otherwise”

“otherwise”—Here there is the same sort of concealment, that is introduced in the part concerning the King, and Gentlemen, you must perceive, that “lawful proceedings” mean proceedings according to *their* laws—“nor will I consent to any society, or any brother of an unlawful character, but will observe and obey the laws and regulations of my committee to whom I belong determined brother”—(Here Mr. *Attorney General* stated the remainder of the oath as set out in the indictment.) This, Gentlemen, was the oath administered, as the witness will swear, by the prisoner, to *Lawler and Clayton*—an oath, that needs little comment; it is impossible to read it, without putting the construction upon it, that it requires obedience to other laws, than those of the country. But if there were any doubt upon this, it will be removed by perusing the catechism, which was administered and attested at the same time. It is pretty much the same as has appeared in several counties of the kingdom. It is plain, that there was but one *National Convention* in the world at the time, that of *France*, and if you are satisfied of these overt acts, both species of treason will be proved, encompassing the King’s death and adhering to his enemies. (Here Mr. *Attorney* stated the catechism, *vid.* indictment)—Whether —gs means Kings, you will determine. A stroke is made first in the paper and immediately after and close to it, are the letters gs, being the final letters of the word Kings. You are to determine how they meant to fill it up, whether with that word or not. Upon putting all the parts together, you will determine, what the object and tendency of the force intended to be raised was; whether it be not manifest, that there was an object by force to change the government, and by that to aid the powers of *France*, which is adhering to the King’s enemies. “*To equal all nations*” was to put down the established government, and to place themselves as governors, and to exercise that tyranny, which is exercised in a neighbouring country, and using as a pretence, the sacred name of freedom.

Gentlemen, I have told you, that after this oath was administered, the witness attended two or three meetings of the *Defenders*, hitherto, possibly, conceiving that the *Defenders* might be used for the purpose of obtaining what was their grand object, a reform of the realm—a reform of the state, by making it a republic, and putting men,
such

such as himself in the government. But after attending one or two meetings, he found the persons assembled had objects very different from what he had conceived. He was cautioned to take care how he should say, he was, a protestant, and some of those miscreants departing from that religion of which they pretended to be members, formed designs of massacring their protestant brethren. Gentlemen, let me repeat it again, for I cannot repeat it too often, that we do not suppose, that any educated, or well minded catholic could entertain such a design;—but young men, whose minds are easily heated, for such there are, unlettered men, profligate men, without religion, or morals, of the lower order of the people—these are the persons who are persuaded to entertain designs of this sort, and to the extent of their power would make the attempt. *Lawler* discovered this—a protestant—seeing the tendency of their meeting, and knowing that the *Defenders* were associated throughout the kingdom, he became alarmed for the consequences, as to himself. He immediately disclosed the designs to a gentleman by whom he had been employed—a man of great worth and credit. *Lawler* told him confidentially what had come to his knowledge. That gentleman, Mr. *Cowen*, did, as was his duty, inform government, of the situation in which the state was, for several hundreds were united in the scheme. Government thus alarmed did immediately seize upon those against whom they had charges and they were committed to prison:—they now remain for their trials, and the prisoner *Weldon* is first brought up. One piece of evidence, Gentlemen, I have omitted to state, which if it should appear in the light I state it, is of the utmost importance to this case. *Weldon* was a private in the 7th Dragoons, which was ordered to *Cork*, there to embark for foreign service. Thus taken from his gainful situation of a Committee-man, or Defender-maker, it was necessary to appoint some person to succeed him. He gave the oath and the article to *Kennedy*, that he might become a committee-man. *Kennedy* was seized, and in the fob of his breeches were found the oath and the catechism, which *Weldon* had administered to *Lawler*. So that here is a fact, which could not be made for the occasion—a fact disclosed before *Kennedy* was seized—that the oath was delivered over to *Kennedy*, which is fully and clearly corroborative of the testimony of *Lawler*. We will now call him, and we doubt not you will examine this

this case, so important to society, with all due deliberations; and find such verdict, as will do you honour, and the public, justice.

WILLIAM LAWLER, *sworn*.

Examined by the SOLICITOR GENERAL.

Q. What has been your occupation—were you bred to any trade?

A. I was bred in the gilding line.

Q. Did you work at that trade in *England* or *Ireland*?

A. In both places.

Q. First in *Ireland*, then in *England*?

A. Yes, Sir.

Q. You served an apprenticeship here?

A. Yes.

Q. To whom?

A. The first part to Mr. *Robinson* of *College-green*; the second part to Mr. *Williamson* of *Grafton street*.

Q. Did you work at your trade in *England*?

A. Yes.

Q. When did you return?

A. About two years ago.

Q. When did you go to *England*?

A. About the year 1791.

Q. During the time you were in *England*, did you belong to any political society?

A. The *London Corresponding* society.

Q. Upon your return to *Ireland*, did you bring any letters of introduction?

A. One.

Q. To whom?

A. To *Archibald Hamilton Rowan*.

Q. From whom?

A. From *Daniel Isaac Eaton*, of *Bishopsgate-street*, *London*, Printer.

Q. I suppose you delivered that letter?

A. I delivered it to a servant of *Hamilton Rowan*. I called in about a week, and saw him.

Q. Where was he then?

A. He came out of a back parlour, and we both went into the front parlour.

Q. Did you ever see him afterwards?

A. Yes, I saw him in the street, and then in *Newgate*:

F

Q. After

Q. After your arrival in *Ireland*, did you become a member of any society?

A. I did, Sir.

Q. Of what society?

A. I do not rightly recollect the name of the first, but after it was dissolved —

Q. Where did it meet?

A. At my rooms, at one *Galland's* in Crane-lane and in Hoey's-Court.—When that was dissolved, I became a member of another.

Q. What was the name of the second society?

A. The *Philanthropic* society.

Q. You do not recollect that the first had any particular name?

A. It had a name, but I do not recollect it.

Q. Do you recollect the name of any particular gentleman of that *Philanthropic* society?

A. There was a *Telegraphic* society.

Q. But do you remember the names of any persons belonging to the *Philanthropic* society?

A. There was *Burke* and *Galland* in it.

Q. What *Burke*?

A. Of the College.

Q. What is become of him?

A. I do not know, but am informed he is gone to *America*.

Q. You afterwards became a member of the *Telegraph* society?

A. They were both much about the same time.

Q. Was there any particular object of this society?

A. Of the *Telegraph*.

Mr. *Curran*. I trust the Gentlemen concerned for the Crown will endeavour to keep the witness, whose evidence they are apprized of, to the strict rule of not drawing from him any answer, of the legality of which there may be a doubt. It is too general to ask what the object of a society was. I do not state this formally to argue upon it; but suggest it to their candour.

Mr. *Solicitor General*. If I knew of any other mode less leading than that which I have used, I would adopt it; but upon some points it is impossible to put a question without in some measure suggesting an answer to it.

Mr.

Mr. Curran. If I am pushed to the necessity of arguing the ground of the objection, it will require very little to be said in support of it. This man says he was a member of a particular society, and he is asked what was the object of that society, although the prisoner was not a member of it.

Mr. Justice CHAMBERLAIN. You have not laid a foundation for asking this question, unless you establish a privity between this society and the prisoner.

Mr. Solicitor General. If I were driven to argue this question, I could support it by very recent adjudications. To shew the general schemes of treason, it is competent to examine as to the object and design of the persons charged as traitors; it was the uniform practice in the cases of *Hardy* and *Tooke*. But it is not kind to embarrass the Court, if it can be avoided.

Q. Was there any other society, beside the *Philanthropic* and *Telegraph* of which you became a member?

A. Not till I became a member of the *Defenders*.

Q. Did they call themselves *Defenders*?

A. They met in several parts of the town.

Q. You say you were of a society called *Defenders*?

A. I believe about a fortnight after the *Fermanagh* militia left *Dublin*, *Brady* and *Kennedy*, called upon me to go to *Weldon* to be sworn as a *Defender*.

Q. (By the Court. You cannot ascertain the time more particularly?

A. No, my Lord.

Q. Neither the month, nor the day?

A. No, my Lord, for *Brady* was to have brought me to *Hanlon*, but he leaving town, *Brady* brought me to *Weldon*.)

Q. Who was *Kennedy*?

A. He was an apprentice to Mr. *Kennedy*, the glass-cutter in *Stephen-street*.

Q. What was *Kennedy*'s christian name?

A. I do not know.

Mr. Curran. It strikes me, that this is not a fair examination, to examine the witness to the acts of two strangers unconnected with the prisoner. It is evidence to say, that two persons carried him, the witness, to the prisoner—
but

but to say they called upon him with the intention of having him sworn is matter of *opinion*, and the evidence ought to consist of *facts*.

Court. Unless the witness was sworn, the evidence will signify nothing.

Q. You saw *Weldon*, the prisoner ?

A. Yes.

Q. Where was it ?

A. At the stables belonging to the Horse-Barrack.

Q. (By the Court. Were *Brady* and *Kennedy* along with you ?

A. Yes, my Lord.)

Q. When you met *Weldon*, where was he ?

A. He happened to be in the stable :— On *Brady's* asking for him he came out ; *Brady* introduced me to him ; we then went to a public house.

Q. Before you got to the public house. Did *Weldon* say or do any thing ?

A. Not to me. He only asked me how I was, and shook hands with me.

Q. Did nothing particular pass in the manner of introducing you ?

A. No, Sir. Not there.

Q. When you arrived at the public house, what happened there ?

A. When we went to the public house, a naggin of whiskey was called for ; we went into a back parlour. *Brady* told *Weldon*, he should go for *Flood*, who promised to meet them.

Q. (By the Court. Do you mean, that *Brady* would go for *Flood* ?

A. Yes, that he, *Brady*, would go for *Flood*.

Q. Did he mention his christian name ?

A. No, my Lord, he did not.)

Q. Did *Flood* come ?

A. *Weldon* desired *Brady* not to be long.—After some time a little boy came in, and told *Weldon* his supper was ready. *Weldon* said that was his little boy, his son.

Q. What happened next ?

A. *Weldon*

A. *Weldon* went to get his supper.

Q. Did *Weldon* return after?

A. *Brady* returned first, and *Clayton* along with him.

Q. (By the Jury. You were left alone then?

A. Except *Kennedy*.)

Q. Did *Weldon* return after any interval?

A. He did, Sir.

Q. How long after?

A. In about a quarter of an hour.

Q. When he returned, what happened?

A. After he sat down, and took a glass of punch, he said, "We had better make these two."

Q. Who did he mean?

A. Me, and *Clayton*:—*Brady* asked him if he had a prayer book? *Weldon* said he had.

Q. Did he take out a prayer book?

A. He did, and laid it upon the table.

Q. What happened after the book was produced?

A. He pulled out some papers and desired *Clayton* and me to take hold of the prayer book in our right hands.

Q. Do you recollect any conversation particularly relative to the object of swearing.

A. Not before he put the oath.

Q. Were you told the purpose for which the oath was given?

A. Yes.

Q. Were you informed of it before?

A. Yes.

Q. You were brought to *Weldon* to be sworn?

A. I was.

Q. He administered the oath?

A. He did.

Q. How did it begin?

A. It began "I A. B."

Q. You have had an opportunity of seeing the paper?

A. Yes.

Q. What was it?

A. He said it was a test.

Q. Should you know the paper again?

A. Yes, Sir.

[Here a paper was produced, beginning I A. B. &c. which the witness said was the same paper he had seen with *Weldon*.]

Q. You

Q. You were sworn to the contents of that paper?

Mr. Curran. I object to this as a leading question—Were you sworn to the contents of that paper? What is the answer, but I was, or I was not?

Mr. Solicitor General. You say you were sworn to that paper?

A. I was to two.

Q. Is this one of them?

A. It is.

Q. Shew him the other—Is that the other?

A. Yes, Sir.

[The paper beginning I *A. B.* was then read. *Vid.* indictment.]

Mr. McNally. I object to this paper going in evidence to the jury, on account of a variance between it and the indictment, the oath in the indictment is "*I William Lawler.*" This paper is I *A. B.*

Mr. Solicitor General. How were you sworn to that paper?—Did you pronounce your name?

A. Yes: I *William Lawler.*

[The second paper, called the *Catechism*, was then read. *Vid.* the indictment.]

Q. After you were sworn, what happened next?

A. After I was sworn to these papers?

Q. Yes: what happened?

A. *Brady* asked him if he knew of any man to head them when they were to rise. *Weldon* said, there was one in the *North*, but did not mention his name.

Q. Had you any further conversation? Remember such as you can.

A. He told us after, that before the time there would be letters sent through the country to tell them when they were to rise.

Q. What further happened?

A. He was asked in what manner every one would become acquainted with it—or how would they get to know it?

Q. By whom was he asked?

A. I believe by *Kennedy.*

Q. You are sure the question was asked?

A. Yes: the question was asked.

Q. What answer did *Weldon* make?

A. He

A. He said the Committee-Men would acquaint them.

Q. What further happened upon that occasion?

A. Nothing I believe of any consequence.

Q. At that meeting?

A. No, Sir.

Q. You got no instructions of any kind?

A. *Weldon* was to tell *Brady* of any meeting of *Defenders*.

Q. (By the Court. Did *Weldon* tell *Brady* so?

A. Yes, my Lord; he said he believed there would be a meeting in the next week in *Thomas-street* of *Defenders*, but did not mention the particular place.)

Q. You have sworn to two papers, which have been read, had you any opportunity of seeing these papers at any other time and with whom?

A. I saw them with *Kennedy* afterwards.

Q. Did you ever hear *Weldon* say any thing of them?

A. *Weldon* told me he would give these papers to *Brady* before he left town.

Q. (By the Court. Did he say he was leaving town?

A. Yes, my Lord, to go to Cork.)

Q. Had you any intimation from any body then present of any meeting to be had?

A. *Brady* of a Sunday brought me to a meeting.

Q. (By the Court. Did *Weldon* say for what purpose he would leave the papers?

A. He did not. He told us the signs so as to know a *Defender*.)

Q. Tell the Jury and the Court what the signs were?

A. *Weldon* said, suppose you happen to be in company and want to know a *Defender*, the sign is to put the two hands joined backwards upon the top of the head, and pretend to yawn, then draw the hands down upon your knee or upon the table.—Then the other answers, by drawing the right hand over the forehead and returning it upon the back of the left hand. The person in answer or reply to that draws the left hand across the forehead, and returns it to the back of the right hand. Upon shaking hands, they pressed the thumb of the right hand upon the back of the left, and not to be afraid to hurt the person, and if they asked what was the pass word *Eliphismatis*.

Q. Did

Q. Did he tell you any thing else ?

A. No, he did not.

Q. I observe in that oath, there is a sentence to be true to *George the Third*, was there any conversation about that ?

A. At the time he finished it and we kissed the book, he asked if we liked it ?—We said we did. He turned about, and looked to *Brady*, who said, "*They knew what they came here for.*"—" *I told them before they came.*"

Q. Did any body at that time talk about the words *George the Third* in the oath ?

COURT. That is a leading question.

Q. Was there any conversation about the oath ?

Mr. *Curran*. That is not a way in which to put a question in a case of life.

Mr. *Solicitor General*. I will argue it, if the Court have any doubt, and assign my reasons.

Mr. *Curran*. I say a leading question is not to be put and a question to which the answer is *yes*, or *no* is a leading question.

Mr. *Justice CHAMBERLAIN*. A leading question is that which suggests the answer. Now if he answer *yes* to this question, and stop there, that will not do—This question then does not suggest the answer.

Q. What did he say ?

A. He said, laughing, that if the King's head were off to-morrow morning we were no longer under his government.

Q. Was that explaining the oath.

A. The test that he put first.—I asked him, was he not afraid of keeping these papers about him in consequence of being in the horse—He said, no; for they were never searched—But he did not care who saw the first paper, for the small paper was the principal. The first paper, he said, was only a cloak for the army.

Q. Did he say, why ?

A. On account of swearing them to be true to the King. He said, he had sworn several of them, and that they would have some objection to part of it, but for that clause.

Q. (By

Q. (By the Court. Was it to reconcile them?
A. Yes.)

Q. Weldon said he would hand over the papers to Brady?

A. Yes.

Q. Did you ever see them afterwards?

A. With Kennedy.

Q. When?

A. About a fortnight after Weldon went out of town.

Q. How came they into Kennedy's hands?

A. I do not know.

Q. Did you know them?

A. I challenged them at a place in Drury-lane—
Murphy lived in Church-street; he and I were together,
and I said——

Mr. McNally objected to this evidence, and the witness was stopped by the Court.

Q. Did Brady ever give you any intimation of any other meeting?

A. He brought me to one in Plunket-street.

Q. To a meeting of what?

A. Of Defenders.

Q. Were any of the same persons present that were with Weldon?

Q. (By the Court. When was this?

A. I cannot recollect.)

Q. Who was at that meeting?

A. Kennedy was along with me at the same time.

Q. There were a good many there?

A. There was a good many there.

Q. Was there any thing done at that assembly?

Mr. Curran. Do the counsel think that evidence?

Mr. Solicitor General. I do.

Mr. Curran. What! affect a man's life by what was done at meetings, when he was 100 miles off!

Mr. Solicitor General. I think it evidence, though the counsel asks the question with some astonishment. It is a rule of law, settled in a variety of cases, and recognized in the very last, that it being once established that the prisoner belonged to a society——

G

Mr.

Mr. *Justice* CHAMBERLAIN. We are of opinion that this is evidence, that there is a foundation laid for it, by swearing that *Weldon* said, there were to be subsequent meetings, and that they should have notice of them from *Brady*; that is a foundation to let in evidence of what is done at those meetings.

Q. What happened at that subsequent meeting?

A. They were putting down money on the table, and I was asked for six-pence, as a collection for powder—

Q. (By the Court. Who asked you?

A. *Brady* desired me to put down six-pence.—I told *Brady* I had not six-pence. *Kennedy* said he would lend me one—He gave me a shilling; I laid down the shilling and took up six-pence and gave it to *Kennedy*. I was told, that a man of the name of *Lockington* then in the room was a captain of *Defenders*.)

Q. What else happened? What powder did you mean?

A. Gun-powder. I understood from them, that they wanted powder, as they were going out to get arms, but not that night.

Q. Did you understand from the company for what they wanted the arms.

A. They did not say.

Mr. *Baron* GEORGE. His conclusion, or his opinion is not evidence; but ask him as to facts done, or the conversations held.

Q. Did any thing more pass?

A. I understood there was to be a meeting. *Brady* and *Kennedy* both told me there was to be a meeting after that

Q. Where did they tell you that?

A. At the meeting.

Q. Did you see any of that company at any other place and where?

A. I did.

Q. Where?

A. At *Stoneybatter*, the corner of *Arbour-hill*.

Q. Who gave you notice?

A. I do not know.

Q. You saw the same company?

A. Some of them, *Hart*, *Leary*, *Cooke* and others.

Mr.

Mr. *Baron GEORGE*. Unless he got notice from *Brady* who was the person authorized it is not evidence.

Q. Did you see *Brady* or *Kennedy* afterwards?

A. I did.

Q. Where?

A. At their own place in *Stephen-street*.

Q. Were *Brady* and *Kennedy* at *Stoneybatter*?

A. No, Sir.

Q. Of what people was the subsequent meeting?

A. Of *Defenders*.

Mr. *Curran*. The Court desired you not to give evidence of that.

Mr. *Solicitor General*. I hope the Court have laid down no rule upon the subject.

Mr. *Baron GEORGE*. We think you have not laid any foundation for the meeting at *Stoneybatter*.

Mr. *Solicitor General*. My Lords, I submit this is evidence. Upon all occasions where the proceedings of any society are let in, all their acts are thereby made evidence. And so it was in the *State Trials* lately, respecting the *London Corresponding Society*, and their conduct was evidence of overt acts. I have established the fact, that there was a meeting of a body of men called *Defenders*: this man was admitted into them, and the evidence goes to shew, that subsequent meetings under the same appellation and obligation did assemble, and did do certain acts which will illustrate the charge against the prisoner.

Mr. *Baron GEORGE*. I do not say, whether they may not be evidence; but I think you have not yet laid a foundation to let in evidence of the meeting at *Stoneybatter*.

Q. You saw the oath afterwards in *Kennedy's* hands, upon what occasion?

A. Upon a meeting with *Murphy*.

Q. Where?

A. At *Drury-lane* in a workshop.

Q. You said there were certain signs communicated by *Weldon* by which a *Defender* might be known?

A. Yes.

Q. Did you see them made use of upon any occasion and where?

A. *Hart* has asked me if —

Mr.

Mr.

Mr. McNally objected to this conversation as not having been at a meeting.

Witness. Nobody is brought to a meeting unless introduced by a person who is a member.

Q. (By the Court. What do you mean by that?

A. There must be some person in the place who will know him.)

Q. Know him to be what?

A. A Defender.

Q. Somebody went with you to Stoneybatter?

A. Yes: Walsh.

Q. Who is he?

A. A tailor.

Q. Was he at the former meeting?

A. No.

Q. How did you know him?

A. As being of the *Philanthropic Society*?

Q. Was he a Defender?

A. He was from the signs he used.

Q. What Walsh is he?

A. A tailor in *Fishamble-street*.

Q. Did you know any other person by the signs?

A. Hart and Cooke.

Q. Were they of the meeting at Stoneybatter?

A. Yes: and one Leary, a shoemaker.

Q. (By the Court. Did you see them make the signs?

A. Cooke came out of a place where he held a school in Stoneybatter and shook me by the hand as a Defender.)

Q. Was the meeting at Cooke's house?

A. Not as I know of.

Q. Where was the meeting at Stoneybatter?

A. At Murphy's—an inn where cars set up.

Q. (By the Court. Was Cooke at the meeting?

A. Yes.)

Q. Who else?

A. Walsh and Hart.

Q. Did they all make the signs?

A. Not there: they did at different times.

Q. Am I to understand, that you frequented these meetings as a Defender yourself?

A. I did.

Q. How

Q. How long did you continue to be a *Defender*?

A. I cannot rightly tell.

Q. Can't you say how long?

A. I believe about three months.

Q. (By the Court. What were the signs made use of at *Stoneybatter*?

A. Shaking the hands.)

Q. Any thing else?

A. No.

Q. How did you shake the hands?

A. By pressing the thumb upon the hand.

Q. In the manner *Weldon* had told?

A. Yes.

Mr. Justice CHAMBERLAIN. Now we think there is a foundation laid to let in the proceedings there.

Q. What were the proceedings?

A. *Hart* brought in a young man and swore him. I saw him lay a small paper upon a book.

Q. What kind of swearing was it that was made use of.

A. I do not know. He told him he was brought to be sworn to be a *Defender*; he was not inclined to be sworn at first: *Hart* said he was to become a *Defender*, as the object was to get arms to assist the *French* when they would come.

Q. Was that man sworn?

A. Yes.

Q. In the same way that you were?

A. He told him the signs.

Q. Did you see them shewn to him?

A. I did.

Q. (By the Court. Did you see him sworn?

A. I did.

Q. In the same manner as before?

A. I cannot say. There was a small paper laid upon a book: I was near the door and could not get near him, there being many in the room and it a small one.)

Q. You say you continued a *Defender* three months?

A. I did, I believe.

Q. What induced you to cease being a *Defender*?—Did you tell any body you were a *Defender*?

A. I did.

Q. To whom?

A. To

A. To Mr. Cowan in Grafton-street, after there was a meeting in Drury-lane at one Nowlan's.

Q. Who were at that meeting?

A. Hart, Cooke, Dry, Turner, Lockington, Kennedy, and Flood, and Coffey.

Q. What was done there?

A. We met for the purpose of getting arms.

Q. It was soon after that meeting you told Mr. Cowan?

A. On the Monday.

Q. Why did you tell him?

A. On account of what I heard Hart declare.

Q. What was that declaration?

A. He tapped me on the shoulder, and I followed him to a window. He asked me, if Dry and Coffey were not Protestants. I said I believed they were. He said he would not sit in company with them.

Q. Was this said aloud?

A. No it was not.

Mr. Solicitor General. Then I have no right to ask it.

Q. Did you hear any thing said aloud?

A. They said they would meet on the Sunday following, but I could not hear rightly what passed from attending to Hart.—We were called to order twice for being from the company.

Q. Did you hear any thing pass?

A. Coffey was in the chair, and wanted to know, how many Defenders there were in Dublin, that there might be officers put over them, that they might be all ready.

Q. You mentioned before, that there was a conversation about subscribing for powder; was there any conversation upon a subsequent meeting upon that subject?

A. Not about taking arms.

Q. At Drury-lane?

A. No.

Q. Where then?

A. At Stoneybatter.

Q. What did you hear there?

A. I heard Hart desire some of them to go home for pistols and arms, that they might go out to take arms that night.

Q. To whom did he say that?

A. To the company—at the house where the young lad was made a Defender; and after sitting some time and the others

others not returning, he thought they would not come back :—he then desired every one remaining to lay their hands upon the table, and swear on their oaths to appear there on the Monday following with pistols to go get arms.

Q. What oath did he mean ?

A. The *Defender's* oath, that they had taken. *Hart* was a committee-man it was said, and any person obliged to attend him when required.

Q. You saw *Hart* exercise the office of a committee-man by swearing another ?

A. I did.

Q. (By the Court. Did *Hart* himself say he was a committee-man ?

A. No, he did not)

Q. You heard no other conversation at that meeting ?

A. In about half an hour after, I said I would go home—*Walsh* came out and said ———

[Counsel for the prisoner objected to this evidence as private conversation.]

Q. Why did you cease to be one of the body ?

A. In consequence of what *Hart* declared.

[This was also objected to.]

Q. You say there was to be a rising and somebody would head them in the *North*, whom *Weldon* did not name ?

A. So he said.

Q. Did *Brady* say any thing about the same subject ?

A. No, he did not.

Q. Was the motive of the rising mentioned at the time ?

A. It was, he said, there would be letters sent.

Q. But what was the motive ?

A. He did not say for what it was.

Cross examined by Mr. CURRAN.

Q. What religion are you of ?

A. A protestant.

Q. Have you always been a protestant ?

A. Yes.

Q. Have you always professed that religion ?

A. Except

A. Except when I was asked what religion I was among the *Defenders*, I said I was a *Roman*, in consequence of what *Brady* said to me.

Q. You are not, sir, upon a cross-examination under colour of an answer to give illegal evidence.—I ask you, except in the case you mention now, have you always professed the protestant religion?

A. Yes, sir.

Q. Do you think you know the principles and grounds of what that religion are?

A. I was brought up to be a protestant, and do not like to change.

Q. Were you taught to believe that there was a God?

A. Yes, sir.

Q. Were you taught that there was the suffering of his son for the redemption of mankind?

A. Yes, sir.

Q. Do you understand that your belief of these sacred doctrines is the foundation of the oath you have taken?

A. When I had taken the oath?

Q. I ask you is it the foundation of the obligation of your oath?

A. Yes, sir.

Q. Have you never, upon any occasion declared, that you did not believe there was a God?

The witness hesitated some time.

Mr. Attorney General. I do not know what the consequence of the question may be, but it exposes the man to punishment.

Mr. McNally. I am prepared to shew that this question is legal.

Mr. Curran. Since the question is objected to, I will not press it. I will not ask you whether you have deliberately denied the existence of a God.—Since this protection is put about you, I am sure it is necessary for you.

M. Attorney General. I did feel that it was a question which ought not to be put;—I have no reason to conclude what his answer would be.

Mr. Curran. After this kind of argument I feel a sort of indecorum in pressing it.

Mr,

Mr. *Prime Serjeant*. If this sort of use be made of the question, the Court will determine upon it.

Mr. *Justice CHAMBERLAIN*. If he be exposed to temporal punishment, he is not bound to answer.

Mr. *Curran*. It would be a different thing, and a man might say, it is my misfortune to be converted by arguments of atheists. He might have read *Hume* upon miracles and adopted his notions.—But I do not press it.

Q. You have said that *Kennedy* and *Brady* brought you to the prisoner's at the bar?

A. Yes.

Q. Had you known him before?

A. Never.

Q. You said, as you discovered their purposes, you discontinued?

A. After what I heard from *Hart*, I went to Mr. *Cowan* and told him.

Q. After the conversation with *Hart*, you told Mr. *Cowan*?

A. Yes.

Q. Was not that a conversation in which he communicated the bad purposes of the meetings?

A. I did not like the idea of massacring *all* the protestants.

Q. Was it by *Hart*, that idea was communicated to you?

A. It was.

Q. And as soon as that was communicated to you, you formed the design of quitting them?

A. Of telling what I heard.

Q. When was the first time you knew of their bad designs?

A. I knew if they were to rise, that *some* persons were to be destroyed; but I did not think they would destroy *all* the protestants.

Q. When did you first understand that any design of this kind existed?

A. From the meetings I used to go to.

Q. How long after *Weldon* had gone to *Cork*?

A. That I told?

Q. That you knew of any persons being to be destroyed?

A. I knew at that meeting when *Weldon* was present.

H

Q. How

Q. How long after *Weldon's* going to *Cork* was it, that you had this conversation with *Hart*?

A. I do not recollect.

Q. Compute?

A. I may think wrong.

Q. Think of it.

A. I know the day of the month *Hart* told me, but I do not know the day of the month *Weldon* went out of town.

Q. It was some time after, however?

A. It was.

Q. *Weldon* said there was to be some meeting?

A. He said he believed there would be a meeting in *Thomas-street*, and when there was, he would acquaint *Brady*, and *Brady* would acquaint us.

Q. Do you know how soon after that *Weldon* went to *Cork*?

A. I do not.

Q. Do you know how long before the next meeting he went away?

A. I cannot tell exactly; it might be a week or a fortnight.

Q. He had gone to *Cork* before?

A. I believe so.

Q. Who gave you notice of it?

A. I was with *Brady* and *Kennedy* and they brought me there.

Q. Did *Brady* say *Weldon* desired him to bring you?

A. No.

Q. What did he say?

A. He said there was a meeting of *Defenders* in *Plunket-street*, and asked me to go there.

Q. He did not say *Weldon* desired him to bring you?

A. No.

Q. You said there was no mention at the meeting in *Plunket-street* of the *French*—that was not until the meeting at *Stoneybatter*?

A. It was at the meeting at *Stoneybatter*.

Q. Do you recollect the distance of time between the meeting in *Plunket-street* and at *Stoneybatter*?

A. I cannot tell.

Q. I do not mean the day of the month; nor what month it was?

A. I cannot tell the time.

Q. Did

Q. Did you make any speeches at *Plunket-street*?

A. No, Sir.

Q. Was there any secretary there taking down notes?

A. Not as I saw.

Q. Was there any chairman putting questions?

A. There was a man at the opposite side of the table, near the grate, and he put down money upon the table, which he had collected—he said it was a subscription for powder.

Q. The next meeting was where?

A. At *Stoneybatter*.

Q. Do you remember whom you saw there?

A. *Hart*, *Leary*, *Cooke* and *Walsh*.

Q. These were all you recollect—*Weldon* was not there?

A. No, sir.

Q. Then there was no person at *Stoneybatter* who was present at the communication with *Weldon*?

A. No.

Q. *Stoneybatter* was the first place you heard any mention of the *French*?

A. It was.

Q. Recollect yourself, because it is very material; did *Weldon* tell you that any part was to be taken by *Cooke*?

A. He never mentioned his name.

Q. Nor by *Hart*.

A. No.

Q. Nor by *Walsh*?

A. No.

Q. That you are clear of?

A. Yes, sir.

Q. Who was it that started any mention about the *French*?

A. *Hart*.

Q. Did he address himself in the way of a speech to the chair?

A. There was no person appointed in the place. But the young man was brought in to be sworn; he appeared shy at first and *Hart* told him the motives of becoming a *Defender*.

Q. It was addressed to the young man?

A. It was, but we were all present by.

Q. Did any one else join in it?

A. No.

Q. He

Q. He said we might get arms and assist the *French* and no other person said and thing upon the subject?

A. No, sir.

Q. Then your evidence comes to this. That the only mention made about the *French* was at *Stoneybatter*—that *Hart* said it to the young man and no one made any kind of reply.—Who did you understand from *Brady* had told him of the meeting in *Plunket-street*?

A. I was walking with him and he told me there was a meeting there and asked to go there.

Q. Did he say who told him of it?

A. No, sir.

Q. I suppose you are perfectly impressed with the enormous nature of the crime of making an attempt upon the person of his majesty?

A. At that time he said we all lived——

Q. I did not ask you as that? But did you not conceive it to be a crime to make an attempt upon the life of the King?

A. Not at that time.

Mr. Curran. I am sorry there was such a time—Go down, young man.

Q. (*By the Jury.* Do you now think it an enormous crime?

A. I certainly do.)

OLIVER CARLETON, Esq. Sworn.

Examined by Mr. SAURIN.

Q. What is that paper in your hands?

A. I had got a warrant from *Alderman James* against *Brady, Kennedy, Walsh* and *Flood*. The Alderman desired me to send for my officers—I did so, and dispatched them to different parts. I went myself with two of them to *Kennedy's* the Glafs-man in *Stephen-street*, at half-past five in the morning——

Q. You were at that time in a public office?

A. Yes.—We knocked at the door some time. Two boys came down at a back door in *Drury-lane*. I asked them their names; they said *Kennedy* and *Brady*—I took them into custody. I had been desired to examine the fob of *Kennedy's* breeches, and I would find there the oath
and

and the catechism. I did search the fob and found them both.

Q. Were these the papers (shewing them to the witness.)

A. These are the papers.

Q. What was then done with *Kennedy*?

A. I took him and *Brady* into custody and brought them to the Castle Guard.

Q. What became of *Kennedy*?

A. I saw him in *Newgate* some time ago.

Cross-examined by Mr. McNALLY.

Q. How long have you known *Lawler*?

A. I do not know him at all.

Q. Have you ever heard any thing of him?

A. I never asked any person about him; nor ever heard any thing about him.

Q. You know nothing of *Weldon*?

A. No.

Q. (By the Court. Who informed you, that you would find these papers upon *Kennedy*?

A. *Alderman James*, who desired me to be particular in searching *Kennedy*, for I would find them in his breeches pocket.)

Q. (By the Jury. *Kennedy* is a boy?

A. He is a very young man—So is *Brady*.

Q. What age may he be?

A. I am a very bad judge of the age of a person.

Case rested for the Crown.

Mr. CURRAN. *My Lords, and Gentlemen of the Jury.* I am of counsel in one of those cases in which the humanity of our law is, very fortunately, joined with the authority and wisdom of the Court in alliance with me for the purposes of legal protection. Gentlemen, I cannot however but regret, that that sort of laudable, and amiable anxiety for the public tranquillity, which glows warmest in the breasts of the best men, has perhaps induced Mr. *Attorney General* to state some facts to the Court and the Jury, of which no evidence was attempted to be given. And I make the observation only for this purpose, to remind you Gentlemen,

Gentlemen, that the statement of counsel is not evidence—to remind you, that you are to give a verdict, upon this solemn and momentous occasion, founded simply upon the evidence which has been given to you; for such is the oath you have taken. Gentlemen, I make the observation, not only in order to call upon you to discharge any impressions, not supported by testimony, but to remind you also of another incontrovertible maxim, not only of the humane law of *England*, but of eternal justice upon which that is founded—that the more horrid and atrocious the nature of any crime charged upon any man is, the more clear and invincible should be the evidence upon which he is convicted. The charge here is a charge of the most enormous criminality, that the law of any country can know—no less than the atrocious and diabolical purpose of offering mortal and fatal violence to the person of the Sovereign, who ought to be sacred. The prisoner is charged with entertaining the guilty purpose of destroying all order, and all society, for the well being of which the person of the King is held sacred. Therefore, Gentlemen, I presume to tell you, that in proportion as the crime is atrocious and horrible, in the same proportion ought the evidence to convict, be clear and irresistible. Let me therefore endeavour to discharge the duty I owe to the unfortunate man at the bar, (for unfortunate I consider him whether he be convicted or acquitted,) by drawing your attention to a consideration of the facts charged, and comparing it with the evidence adduced to support it.

The charge, Gentlemen, is of two kinds—two species of treason—founded upon the statute 25 *Ed.* 3. One is, compassing the King's death. The other is a distinct treason—that of adhering to the King's enemies. In both cases, the criminality must be clearly established, under the words of the statute, by having the guilty man convicted of the offence by *proveable* evidence of *overt-acts*. Even in the case, and it is the only one, where by law the imagination shall complete the crime, there that guilt must be proved, and can be proveable only by outward acts, made use of by the criminal for the effectuation of his guilty purpose. The overt acts stated here are, that he associated with traitors unknown, with the design of assisting the *French*, at war with our government, and therefore a public enemy. 2^{dly}, Consulting with others for the purpose of assisting the *French*. 3^{dly}. Consulting with

with other traitors to subvert the government.—*4thly*, Associating with *Defenders* to subvert the protestant religion—*5thly*, Enlisting a person stated in the indictment to assist the *French* and administering an oath to him for that purpose. *6thly*, Enlisting him to *adhere* to the *French*. *7thly*, Corrupting *Lawler* to become a *Defender*—*8thly*, Enlisting him by administering an oath, for similar purposes.—In order to warrant a verdict convicting the prisoner, there must be clear and convincing evidence of some one of these overt acts, as they are laid. The law requires that there should be stated upon record, such an act as in point of law will amount to an overt act of the treason charged, as matter of evidence, and the evidence adduced must correspond with the fact charged. The uniform rule which extends to every case applies to this, that whether the fact charged be sustained by evidence is for the conscience and the oath of the Jury, according to the degree of credit they give to the testimony of it. In treason, the overt act must sustain the crime, and the evidence must go to support the overt act so stated. If this case were tried at the other side of the water, it does not strike me, that the very irrelevant evidence given by Mr. *Carleton* could have supplied what the law requires; the concurring testimony of two witnesses. I cannot be considered, indeed I should be sorry, to put any sort of comparison between the person of Mr. *Carleton* and the first witness who was called upon the table. Gentlemen of the Jury, you have an important province indeed—the life and death of a man to decide upon. But previous to that you must consider, what degree of credit ought to be given to a man under the circumstances of that witness produced against the prisoner. It does appear to me, that his evidence merits small consideration in point of credibility.—But even if he were as deserving of belief as the witness that followed, and that his evidence were as credible as the other's was immaterial, I shall yet rely confidently, that every word if believed does leave the accusation unsupported. Gentlemen, I will not affront the idea which ought to be entertained of you, by warning you not to be led away by those phantoms which have been created by prejudice, and applied to adorn the idle tales drunk down by folly, and belched up by malignity. You are sensible that you are discharging the greatest duty that law, and religion can repose in you, and I am satisfied you will discard your passions,

sions, and that your verdict will be founded, not upon passion or prejudice, but upon your oaths and upon justice. Consider what the evidence in point of fact is.—*Lawler* was brought by *Brady* and *Kennedy* to *Weldon*, the prisoner, in *Barrack street*; what *Brady* said to him before, if it had been of moment in itself, I do not conceive, can possibly be extended to him, who did not assent to the words and was not present when they were uttered. *Lawler* was carried to the prisoner at the bar to be sworn;—And here give me leave to remind you, what was the evidence—to remind you that the expressions proved do not bear that illegal import which real or affected loyalty would attach to them, and therefore you will discharge all that cant of enthusiasm from your minds.—I wish that I were so circumstanced as to be entitled to an answer, when I ask Mr. *Attorney General*, what is the meaning of the word *Defender*? I wish I were at liberty to appeal to the sober understanding of any man for the meaning of that tremendous word. I am not entitled to put the question to the counsel or the court—but I am entitled to call upon the wise and grave consideration of the court to say, whether the zeal of public accusation has affixed any definite meaning to the word?—I would be glad to know, whether that expression, which is annexed to the title of the highest Magistrate, marking his highest obligation and styling him the DEFENDER of the religion of the country,—in common parlance acquired any new combination, carrying with it a crime, when applied to any other man in the community?—Let me warn you, therefore, against that sort of fallacious lexicography which forms new words, that undergoing the examination of political slander or intemperate zeal, are considered as having a known acception.—What is the word?—A word that should be discarded, when it is sought to affix to it another meaning than that which it bears in the cases where it is used. Let me remind you that a *Defender*, or any other term used to denote any confraternity, club, or society, like any other word, is arbitrary, but the meaning should be explicit. And therefore with regard to this trial, you are to reject the word, as having no meaning, unless from the evidence you find, it has in the mind of the party a definite explication;—For observe that the witness such as he is—such as he was, with all his zeal for the furtherance of justice, which he was once ready to violate by the massacre of his fellow subjects—
with

with all his anxiety for his Sovereign's safety, whom he was once ready to assassinate, he, I say, has not told you, that either *Brady* or *Kennedy* or any other person, what the principles were that denoted a *Defender*. But I will not rest the case of my client upon that ground:—no, it would be a foolish kind of defence, because words might be used as a cloak and therefore might be colourably introduced. You, Gentlemen, are then to consider what this oath, this nonsensical oath, which so far as it is intelligible is innocent, and so far as it is nonsense, can prove nothing, you are to consider, whether innocent and nonsensical as it may appear, it was yet a cover and a bond for treasonable association—It is not in my recollection, that any evidence was given, that the oath was conceived in artfully equivocal expressions, for forming, under the sanction of loyal language, a treasonable association.—Is one of the parties laughing, evidence, that it was treasonable, or the bond of a criminal confederation?—It is not. Is it treasonable to say, “that were the King's head off to-morrow, the allegiance to him would be at an end?”—It is not. The expressions may bring a man into disrepute—to lead the mind of a jury into a suspicion of the morality of the man who used them—but nothing more. It may be asked why should there be any thing insidious?—why but to cover a treasonable purpose are all these suspicious circumstances?—It is not for me, nor is it the prisoner's duty to account for them in defending himself against this charge; because circumstances are not to render innocence doubtful, but it is full proof establishing the guilt and the treason indubitably which the law requires. Therefore I submit that even if the evidence could be believed, it does not support the overt acts—Was there a word of violating the person of the King?—Any affected misrepresentation of any abuse of government?—Have you heard a word stated of the King, not being an amiable King? Any words contumeliously uttered respecting his person—disrespectful of his government—expressive of any public grievance to be removed, or good to be attained?—Not a word of such a subject—Nothing of the kind is proved by this solitary witness in all his accuracy of detail.

Was there any proposition of assisting the *French* in case they invaded this kingdom?—To support that charge a nonsensical catechism is produced—There it is asked,
 I “ where

"Where did the cock crow when all the world heard him?"—What kind of old women's stories are these to make an impression upon your minds?—Well, but what does that mean? Why, can you be at a loss?—It means to—kill the King!—Look at the record—it charges the persons with compassing the King's death, and the question about the crowing of a cock is the evidence against them.

Gentlemen, you all know, for you are not of ordinary description, that the statute of *Ed. III.* was made to reduce vague and wandering treasons—to abolish the doctrine of constructive treason and to mark out some limited boundaries, clear to a court and jury. If a man has been guilty of disrespect in point of expression to the Government, or the Crown, the law has ascertained his guilt and denounced the punishment. But all the dreadful uncertainty intended to be guarded against by the statute, and which before the passing of the statute had prevailed in case of treason, and which had shed upon the scaffold some of the best blood in *England* would again run in upon us, if a man were to suffer an ignominious death under such circumstances as the present.—If equivocal expressions should be taken as decisive proof, or if dubious words were to receive a meaning from the zeal of a witness, or the heat, passion or prejudice of a jury. The true rule by which to ascertain what evidence should be deemed sufficient against a prisoner is, that no man should be convicted of any crime except upon the evidence of a man subject to an indictment for perjury, where the evidence is such as if false, the falsehood of it may be so proved as to convict the witness of perjury. But what indictment could be supported for a laugh, a shrug, or a wink?—Was there any conversation about killing the King—No:—but here was a laugh—there was an oath to which we were sworn—and then—there was a wink; by which I understood, we were swearing one thing and meant another.—Why, gentlemen, there can be no safety to the honour, the property or the life of man, in a country where such evidence as this shall be deemed sufficient to convict a prisoner. There is nothing necessary to sweep a man from society, but to find a miscreant of sufficient enormity, and the unfortunate accused is drifted down the torrent of the credulity of a well intending jury.—See how material this is, *Weldon* was present at only one conversation with the witnesses.

ness. It is not pretended by the counsel for the Crown, that the guilt as to any personal evidence against *Weldon* does not stand upon the first conversation. Was there a word upon that conversation of adhering to the King's enemies? It was stated in the case, and certainly made a strong impression, that *Lawler* was enlisted in order to assist the *French*.—I heard no such evidence given. The signs of what he called *Defenders* were communicated to him; the oath which he took was read, and he was told there would be a subsequent meeting of which the witness should receive notice from *Brady*.

Gentlemen, before I quit that meeting at *Barrack-street*, let me put this soberly to you. What is the evidence upon which the Court can leave it to you to determine, that there is equivocation in the oath?—It must be in this way: you are to consider words in the sense in which they are spoken, and in writings words are to be taken in their common meaning. Words have sometimes a technical sense for the purposes of certainty.—They may also be made the signs of arbitrary ideas, and therefore I admit a treasonable meaning may be attached to words which in their ordinary signification are innocent.—But where is the evidence, or what has the witness said to make you believe, that these words in the oath were used in any other than in the common ordinary acceptation? Not a word as I have heard. *Weldon* can be affected only personally either, 1st upon acts by himself, or by other acts brought home to him from the general circumstances of the case.—I am considering it in that two-fold way, and I submit, that if it stood upon the evidence respecting the conduct of the prisoner at *Barrack-street* alone, there could not be a doubt as to his acquittal. It is necessary therefore, that I should take some further notice of the subsequent part of the evidence. The witness stated, that *Weldon* informed him, that there would be another meeting of which, he the witness, should have notice. He met *Brady* and *Kennedy*, they told him there was a meeting at *Plunket-street*; and here give me leave to remind the Court, that there is no evidence, that there was any guilty purpose in agitation to be matured at any future meeting—no proposal of any criminal design. There ought to be evidence to shew a connexion between the prisoner, and the subsequent meeting as held under his authority. It is of great moment to recollect, that before any meeting *Weldon* had left town
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and in the mention of any meeting to be held, let it be remembered he did not state any particular subject, as comprehending the object of the meeting. What happened? There certainly was a meeting at *Plunket-street*—but there was not a word of assisting the *French*—of subverting the religion—of massacring the protestants—of any criminal design whatever.—There was not any consultation upon any such design. I make this distinction, and rely upon it, that where consultations are overt acts of this or that species of treason, it must be a consultation by the members composing that meeting; because it would be the most ridiculous nonsense, that a conversation addressed from one individual to another, not applied to the meeting, should be called a consultation.—But in truth there is no evidence of any thing respecting the *French* except in *Stoneybatter*—There for the first time, the witness says, he heard any mention of the *French*. Here, Gentlemen of the Jury, let me beseech you, to consider what the force of the evidence is. Supposing that what one man said there to another about assisting the *French* to have been criminal; shall *Weldon*, who was then for a week, 100 miles from the scene, be criminally affected by what was criminally done at *Stoneybatter*? It is not only that he shall be criminally affected by what was criminally done, but even to the shedding of his blood, shall he be affected by what any individual said, who casually attended that meeting!—Have you any feeling of the precipice to which you are hurried, when called upon to extend this evidence in such a manner?—without any one person being present with whom the prisoner had any previous confederation! You will be very cautious indeed, how you establish such a precedent. How did *Weldon* connect himself with any other meeting? Why, he said, there will be another meeting, you shall have notice.—It would be going a great way to affect him in consequence of that. I lay down the law with confidence, and I say there is no doctrine in it, so well ascertained and established, as that a man is to be criminally affected only by his *own acts*—the man to be charged, must be charged with *overt acts* of his own. There is no law—no security—no reason in that country where a man can be mowed down by foolishly crediting the evidence, not of acts of his own, but of the acts of others, *constructively* applied to him, who did not attend the meeting, nor was ever aware of it. If a man
was

was to be exposed to the penalties of treason hatched and perpetrated in his absence, every member of society becomes liable to be cut off by mere suspicion. I say, no man could go to his bed with an expectation of sleeping in it again if he were liable to be called upon to answer a charge of suspicious words, spoken when he was 100 miles off, by miscreants with whom he had no connection. Good Good! Gentlemen, only take asunder the evidence upon which you are called upon to take away the life of this man—"You, *Weldon*, are chargeable, and shall answer "with your blood, for what was done at *Stoneybatter*."—"Wny, that is very hard, Gentlemen, for I was not "there—I was 100 miles off."—"Yes, but you were "there in contemplation of law, consulting about the "abominable crimes of compassing the King's death, and "adhering to his enemies."—"How, Gentlemen, could "I be there—I knew not that there was any such meeting "—I was not present at it."—"Aye, but you were there "in contemplation of law, because you told *Lawler*, that "*Brady* would inform him, when there would be a meet- "ing in *Thomas street*, and because you told him so, you "shall be answerable with your life for what is done at "any meeting, at any distance of time, at any place, by "strangers whom you have never seen or heard of.—You "have put your name, you have indorsed the treasonable "purpose, and through whatever number of persons it may "pass, the growing interest of your crime is accumulating "against you, and you must pay it with your blood, when "it is demanded of you."—Gentlemen, before we shall have learned to shed blood in sport—while death and slaughter are yet not matter of pastime among us, let us consider maturely before we establish a rule of justice of this kind.—Terrible rules, as we have seen them to be, when weighed upon the day of retribution. I confess it is new to me. Whatever doctrines I have learned, I have endeavoured to learn them from the good sense, and humanity of the English law;—I have been taught, that no man's life shall be sacrificed to the ingenuity of a *scholium*, and that even he, who has heedlessly dropped the seed of guilt, should not answer for it with his blood, when it has grown under the culture of other hands from folly to crime and from crime to treason; he shall not be called upon to answer for the wicked faults of casual and accidental folly. No; Gentlemen, I say it with confidence, the act which makes
a man

a man guilty must be his own; or if it be by participation, it must be by *actual* participation, not by construction; a construction which leads to an endless confounding of persons and things.—If I do an act myself, I am answerable for it:—If I do it by another I am answerable also. If I strike the blow, I am answerable:—If I send an assassin and he strikes the blow it is still my act, and I ought to be charged with the criminality of it.—But if I go into a society of men, into a club, or a play-house, and a crime be there committed, there is no principle of law which shall bring home to me the guilty conduct of those men which they may pursue at any distance of time.—What protection can a miserable man have from my discharging perhaps the ineffectual office of my duty to him, if the rule laid down, that every word he said, or was said by a man with whom he ever had a conversation, shall affect him at any distance of time? Consider what will be the consequence of establishing the precedent, that a man shall always be responsible for the act of the society to which he has once belonged. Suppose a man heedlessly brought into an association where criminal purposes are going forward—suppose there was what has been stated, a society of men calling themselves *Defenders* and answering in fact to the very singular picture drawn of them.—Will you give it abroad, that if a man once belongs to a criminal confederacy, his case is desperate—his retreat is cut off—that every man once present at a meeting to subvert the government shall be answerable for every thing done at any distance of time by this flagitious association. What is the law in this respect?—As in the association there is peril, so in the moment of retreat, there is safety. What could this man have done?—He quitted the city—he went to another part of the kingdom, when the treasonable acts were committed; yes, but he was virtually among them.—What constitutes a man *virtually* present, when he is *physically* absent? What is the principle of law by which he shall be tried? It can alone be tried by that, by which the mandate or authority of any man is brought home to him.—By previously suggesting the crime, by which he becomes an accessory before the fact, and therefore a principal in treason; for by suggesting the crime he proves the concurrence of his will with that of the party committing the crime.—This is a maxim of law, that which in ordinary felonies makes a man an accessory, in treason will constitute him a principal,

principal, because in treason there are no accessaries. Suppose a meeting held for one purpose, and a totally distinct crime is committed, are those who were at the first meeting accessaries?—Certainly not; because they must be procurers of *the* fact done.—To make a man a principal, he must be *quodammodo* aiding and assisting—that is not proved. What then is the accessorial guilt? Did the prisoner write to the others?—Does he appear to be the leader of any fraternity—the conductor of any treasonable meeting? No such thing. I say when he quitted *Dublin* he had no intention of giving aid, or continuance to any meeting; the connection between him and the societies ceased, and there is no evidence that he had any knowledge of any of their subsequent acts. Unless there be positive evidence against him, you ought to consider him out of the sphere of any association.—But still you make him answerable for what was done. If you do that, you establish a rule unknown to the sense or humanity of the law; making him answerable for what was done, not by himself but by other persons.

Gentlemen, I feel that counsel, anxious as they ought to be, may be led further than they intend;—in point of time I have pressed further than I foresaw upon the patience of the Jury and the Court. I say the object of this part of the trial is whether the guilt of any thing which happened in that society be in point of law brought home to the prisoner? I have endeavoured to submit that the charge ought to be clear and the evidence explicit, and that though the meetings at which *Lawler* attended were guilty, yet the prisoner being absent, was not affected by their criminality. Give me leave now, with deference, to consider the case in another point of view. I say then, from what has appeared in evidence, the meetings themselves cannot in the estimation of law be guilty. If these meetings are not proveably guilty of treason, there can be no retroacted guilt upon the prisoner, even if the communication between them and him were proved. If there be no direct and original guilt—if they do not that, which if done by him, would amount to an overt act of treason, *à fortiori*, it cannot extend to him. Therefore let me suppose, that the prisoner were at the time present at these meetings. Be pleased to examine this, whether if he were, the evidence given would amount to the proof required. I conceive that nothing can be more clear than the distinction between mere casual, indiscreet language, and language conveying
a deli-

a deliberated and debated purpose. To give evidence of overt acts, the evidence must be clear and direct. How is *Hensley's* case?—a species of evidence was adduced which it was impossible for any man to deny: actual proof of correspondence found in his own writing and possession. How was it in *Lord Preston's* case?—evidence equally clear of a purpose acted upon; going to another country for that treasonable purpose. In every case of which we read memorials in the law, the act is such, that no man could say it is not an overt act of the means used by the party in effectuation of his guilty intent. But I said, that a deliberate purpose expressed and acted upon is different from a casual, indiscreet expression. Suppose now, that the meeting were all indicted for compassing the King's death, and that the overt act charged is, that they consulted about giving aid to the King's enemies, actually at war. The guilt of all is the guilt of each, there is no distinction between them. If that meeting held that consultation, they are all guilty of that species of high treason. But if the evidence were, that at that meeting which consisted of as many as are now here, one individual turned about to another, and said "we must get arms to assist the French, when they come here." Would any reasonable man say, that was a consultation to adhere to the King's enemies?—a mere casual expression, not answered by any one—not addressed to the body?—Can it be sustained for a moment in a Court of Justice, that it was a consultation to effect the death of the King, or adhere to his enemies. No—Gentlemen:—This is not matter of any deep or profound learning—it is familiar to the plainest understanding. The foolish language of one servant in your hall is not evidence to affect all the other servants in your house: it is not the guilt of the rest. I am aware, it may be the guilt of the rest; it may become such. But I rely upon this; I address it to you with the confidence that my own conviction inspires; that your Lordship's will state to the Jury, that a consultation upon a subject is a reciprocation of sentiment upon the same subject. Every man understands the meaning of a consultation: there is no servant that cannot understand it. If a man said to another, "we will conspire to kill the King,"—no lacquay could mistake it. But what is a consultation?—Why such as a child could not mistake if it passed before him. One saying to another, "we are here together, private friends—we are at war—the *French* may land, and
" if

“ if they do, we will assist them.”—To make that a consultation there must be an assent to the same thought; upon that assent, the guilt of the consultation is founded. Is that proved by a casual expression of one man, without the man to whom it was directed making any answer, and when in fact every other man but the person using the expression was attending for another purpose?—But if there be any force in what I have said as applied to any man attending there, how much more forcible will it appear, when applied to a man, who was 100 miles distant from the place of meeting. If the law be clear, that there is no treason in hearing treasonable designs and not consenting thereto—though it be another offence, unless he goes there knowing before hand, the meeting was to be. Here, Gentlemen, see how careful the law is, and how far it is from being unprovided as to different cases of this kind. If a man go to a meeting, knowing that the object is to hatch a crime, he shall be joined in the guilt. If he go there and take a part, without knowing previously, he is involved: though that has been doubted, *Foster* says, “ this is proper to be left to the Jury, though a party do, or say nothing as to the consultation.” If for instance, a man knowing of a design to imprison the King, and goes to a meeting to consult for that purpose, his going there is an obvious proof of his assent and encouragement. This is the law as laid down by one of the most enlightened writers in any science. Compare that doctrine with what Mr. *Attorney General* wishes to inculcate, when he seeks to convict the prisoner. There was a meeting in *Barrack-street*, and it was treason, because they laughed.—As *Sancho* said, they all talked of me, because they laughed.—But then there is a catechism.—Aye, what say you to that?—The cock crew in *France*—what say you to that? Why I say it might be foolish, it might be indecent to talk in this manner—but what is the charge? that he consulted to kill the king? Where was it, he did that? At Cork! But did he not assist?—No, he was not there.—But he did assist, because he communicated signs, and thus you collect the guilt of the party, as the coroner upon an inquest of murder, who thought a man standing by was guilty—why, because three drops of blood fell from his nose. This was thought to be invincible proof of his guilt, It reminds me also of an old woman, who undertook to prove that a ghost had appeared. “ How do you know “ there was a ghost in the room?”—“ Oh! I’ll prove to

" you, there *must* have been a ghost—for the very moment
 " I went in, I fainted flat on the floor!"—So says Mr.
Attorney General. " Oh, I'll convince you, Gentlemen,
 " he designed to kill the King, *for he laughed.*"—*Weldon*
 was chargeable with all the guilt of the meeting—he laugh-
 ed, when the paper was read and said, when the King's head
 was off, there was an end of the allegiance. In answer to
 that, I state the humane good sense of the law, that in the case
 of the life of a traitor; it is tender in proportion to the abo-
 mination of the crime: for the law of *England*, while it sus-
 pended the sword of justice over the head of the guilty man,
 threw its protection around the innocent, to save his loyalty
 from the danger of such evidence:—it did more—it threw
 its protection around him whose innocence might be doubt-
 ed, but who was not proved to be guilty. The mild and
 lenient policy of the law discharges a man from the neces-
 sity of proving his innocence, because otherwise it would
 look as if the Jury were impannelled to condemn upon
 accusation without evidence in support of it, but merely
 because he did not prove himself innocent. Therefore,
 Gentlemen, I come round again to state what the law is.
 In order to make a general assembling and consultation evi-
 dence of overt acts, there must be that assembling and the
 guilt must be marked by that consultation in order to charge
 any man, who was present and did not say any thing concur-
 ring with the guilt of that consultation. It is necessary that
 he should have notice that the guilty purpose was to be debat-
 ed upon:—that the meeting was convened for that purpose.
 But let me recal your attention to this, and you will feel it
 bearing strongly upon that case. The silence of a man at such
 a meeting is not criminal to the degree here charged. Then
 suppose his disclaimer necessary—suppose the law considered
 every man as abetting what he did not disavow, remember
 that the wretch now sought to be affected by his silence at
 a meeting, was 100 miles distant from it. There might
 have been a purpose from which his soul had recoiled.—
 Is this then evidence upon which to convict the prisoner?—
 There is no statement of any particular purpose—no sum-
 mons to confer upon any particular purpose—no authority
 given to any meeting by a deputy named—and let me re-
 mind you, that at the last meeting, if there were the gos-
 sippings and communications you have heard, there was not
 any one man present who attended the first meeting, nor is
 there any evidence to shew, that the prisoner had ever
 spoken

spoken to any one man who attended the last meeting, upon any occasion, and yet the monstrous absurdity contended for is, that although *Weldon* proposed no subject for discussion—although he proposed no meeting—although he did not know that any purpose was to be carried into effect, because he was then 100 miles off, he is still to suffer for the foolish babble of one individual to another. You are to put all the proceedings together and out of the tissue of this talk, hearsay and conjecture, you are to collect the materials of a verdict, by which you directly swear, that the man is guilty of compassing the King's death. But suppose a man were to suggest a treasonable meeting—that the meeting takes place and he does not go—the first proposal may amount to evidence of treason if it went far enough, and amounted to an incitement—But suppose the meeting held be a distinct one from that which was suggested, and the party does not attend, it appears to me, that the act of that meeting cannot be considered as his overt act. The previous incitement must be clearly established by evidence, and I rely upon it, that the subsequent acts of that meeting, to which I am supposing he did not go, particularly if it be a meeting at which many others were present who were not at the first, I rely upon it, I say, that no declaration of any man (and more decidedly if it be by a man not privy to the original declaration,) can be evidence upon which a jury can attach guilt to the party. It is nothing more than a misfeasance, which is certainly criminal, but not to the extent of this charge. To affect any man by subsequent debate, it must be with notice of the purpose, and if the meeting be dictated by himself it is only in that point he can be guilty; because if you propose a meeting for one purpose, you shall not be affected by any other—no matter what the meeting is—however treasonable, or bad; unless you knew before for what purpose they assembled you cannot be guilty virtually by what they have done. Gentlemen, I do not see that any thing further occurs to me upon the law of the case, that I have not endeavoured in some way to submit to you. Perhaps I have been going back somewhat irregularly.—Gentlemen, there remains only one, and that a very narrow subject of observation. I said that the evidence upon which the life, and the fame and the property of a man should be decided and extinguished, ought to be of itself, evidence of a most cogent and impressive nature. Gentlemen, does it appear to you that the witness whom
you

you saw upon the table comes under that description.—Has he sworn truly?—If he has—What has he told you? As soon as he discovered the extent of the guilt he quitted the fraternity.—Do you believe that?—*Hart* told him that ALL the protestants were to be massacred. “I did not like,” said he, “the notion of massacring ALL”—Here is the picture he draws of himself—he an accomplice in the guilt—I did not ask him, “Have you been promised a pardon?”—I did not ask him, “Are you coming to swear by the acre?”—But I appeal to the picture he drew of himself upon the table—What worked his contrition?—Is it the massacre of one wretch?—He was unappalled at the idea of dipping his hands, and lapping the blood of *part* of the protestant body—it was only heaps of festering dead, that nauseated his appetite and worked his repentance and conversion—Is your verdict to be founded upon the unsupported evidence of a wretch of that kind—His stomach stood a partial massacre—it was only an universal deluge of blood that made him a convert to humanity! And he is now, the honest, disinterested and *loyal* witness in a court of justice.—What said he further?—As soon as I found from *Hart* their schemes, I went to Mr. *Cowan*. You saw, Gentlemen, that he felt my motive in asking the question—“You abandoned them as soon as you found their criminality”—Because had he answered otherwise he would have destroyed his credit; but as it is he has thrown his credit, and the foundation of it overboard. If *Lawler* be innocent, *Weldon* must be so—He saw that and therefore he said, he thought it no crime to kill the King—Therefore, Gentlemen, my conscience told me, that if he felt no remorse at plunging a dagger into the heart of his King, he would feel no trembling hesitation at plunging a dagger into the breast of an individual subject by perjured testimony.—Those workings of the heart which agitate the feelings at the untimely fate of a fellow creature touch not him, and he could behold with delight, the perishing of that man who had a knowledge of *his* guilt. He has no compunction and he betrays no reluctance at drinking deep in the torrent of human blood, provided it leaves a remnant of the class. What stipulation can you make between a wretch of that kind and the sacred obligation of an oath? You are to swear upon his oath—A verdict is not to be founded upon your own loyalty—not upon what you have seen or heard spoken disrespectfully of the government or the King. Your honest, pure, and constitutional

tional verdict can be founded only upon that sympathy that you feel between your own hearts and the credibility of the witness. It is a question for you—Will you hazard that oath upon the conscience of such a man?—A man influenced by hope and agitated with fear—anxious for life and afraid to die, that you may safely say “We have heard a witness, he stated facts which we could not believe;—he is a wretch for he thought it no crime to murder his King—and a partial massacre appeared to him to be meritorious!” Is it upon the testimony of that nefarious miscreant—the ready traitor—the prompt murderer—I retract not the expression, if I did, it would be to put in its place a word of more emphatic and combined reprobation—is it upon that evidence, I say you will pronounce a verdict, establishing the most aggravated degree of criminality known to our law upon the person of that man, supposed by the law to be innocent until his guilt be proved?—I know not whether the man be a good subject or a bad one: it is not necessary for me to know nor for you to enquire; but I exhort you, finally to remember, that in *Great Britain*, so anxious has the law been to guard against the perfidiousness of such men, that no less than two concurrent witnesses are necessary there in cases of treason—I call not upon you to adopt that law; but to shew you the principle, that there should be strong evidence satisfying the mind of a jury. I commit the decision of this case to your consciences, not to your humanity—I commit it to your determination upon the sound principles of justice and law.

After Mr. *Curran* had sat down, he rose again, and said he had closed without stating any evidence from a conviction, that it would be unnecessary—It is desired to produce some evidence which I will not oppose in a case of life—There is evidence to shew that *Lawler* is not credible.

Samuel Galland was then called and sworn on the part of the prisoner, but was not examined.

JAMES REYNOLDS, *Sworn.*

Examined by Mr. McNALLY.

- Q. Do you know the prisoner?
 A. I have known him for 17 years.
 Q. What has been his general character?

A. I

A. I never heard of any thing improper, before this trial—he worked as a breeches-maker and was an industrious man.

THOMAS O'NEIL, *Sworn.*

Examined by Mr. McNALLY.

Q. Do you know the prisoner?

A. I do.

Q. How long have you known him?

A. I have known him 20 years.

Q. What has been his general character?

A. A very good one—he was an honest, labourious man.

Mr. *McNally* then addressed the Jury in a short speech for the prisoner, apologizing for his brevity by stating that he was much indisposed and that any exertion upon his part was rendered less necessary by the very splendid defence by Mr. *Curran*.

Mr. *Prime Serjeant* in reply, spoke to the evidence very fully.

Mr. *Justice FINUCANE. Gentlemen of the jury.* In this case *James Weldon* stands indicted of two species of treason, declared to be such, by the stat. 25 *Ed. 3.* One of these is for imagining and compassing the death of the King. And the other is for adhering to the King's enemies. Now, Gentlemen, as to first of these charges, that of compassing the King's death, such is the anxious care with which the life of the King is guarded by our law, that the offence is not confined to acts, or attempts directly against the life of the King, as by lying in wait to assassinate, or by murdering, but it extends to every thing deliberately done, by which the life of the King might be endangered. Thus, it has been always held, and is now well established, that all attempts to dethrone or imprison the King are overt acts of compassing his death; for all experience, and all history shew, that the necessary consequence of such dethronement or imprisonment has been the death of the King.—So, also adhering to the King's enemies, or encouraging them to invade the kingdom, are overt acts of imagining his death; and that I take it, does fairly follow

follow to the conviction of every man, when he considers that the ultimate object of the King's public enemies is his death and destruction. The King is the first soldier of the state, and the sword of the enemy is as much levelled at his life, as at that of any soldier in his army. And therefore every act of adhering, countenance, or assistance to the King's enemies, does necessarily fall under that branch of the statute, which makes the offence of compassing and imagining the death of the King. Therefore, gentlemen, although these two offences are made distinct by the statute, compassing his death and adhering to his enemies, yet every overt act, which proves the person adhering to the King's enemies, is also an overt act of compassing the death of the King. By *overt act*, nothing more is meant, than an act done by the party to effect his treasonable intent. It is called an *overt act*, that is, an *open act*, the mean used by the party to accomplish his treason, that is to say, to put the King to death, or adhere to the King's enemies. No man is answerable for the tacit imagination of his heart, unless he does something to effect his traitorous intent. To God alone, the searcher of all hearts, is he answerable for his thoughts and intentions. But human tribunals cannot take cognizance of *thoughts*, except so far as they are manifested by *acts*. Therefore in every indictment of treason, the overt acts, the means used to effect the purpose must be set forth, because it is against them, the accused is to make his defence. But though the indictment should, as it generally does, state several overt acts, as means used by the party to effect his purpose; yet, if there be any one applicable to the treason charged, it is sufficient. Now, Gentlemen, in the present indictment, the overt acts of both species of treason are one and the same; and from what I before mentioned, they may be so, as every act of adhering to the King's enemies, is an overt act of compassing the King's death. The overt acts in this indictment are these: First, after reciting that a war is depending between the King and the persons exercising the powers of government in *France*, (and here I must observe, that although no proof be given of a war existing between the King and the persons exercising the powers of government in *France*, yet the notoriety of the fact is sufficient evidence of it) the indictment, I say, recites the war, and then

then charges that the prisoner did unite with false traitors, called *Defenders*, and become one of a party to aid the *French*, in case they should invade this kingdom. This is stated as the manner in which he intended to carry into effect his traitorous purpose. Secondly, That he did consult with other traitors unknown, in the joining and assisting with the *French*. Thirdly, That he did unite with traitors unknown, and become one of a party called *Defenders*, united to subvert the government as by law established. But, Gentlemen, this overt act being thus laid, not stating that there was any plan formed to effect it *by force*, we are of opinion, that this overt act does not fall within either species of treason; therefore you are not to apply your consideration to that overt act. The fourth, is to the same purport, and you will also put it out of your consideration, that he did unite with others unknown to subvert the Protestant religion, and consult about the means, &c. The court are of opinion, that does not form any overt act of compassing the King's death, or adhering to his enemies. The fifth is, that the prisoner did, with other traitors unknown, in order to enlist *William Lawler* to be aiding and assisting the *French*, in case they should invade this kingdom, administer an unlawful oath. I will not read this to you now, Gentlemen, because, when I state the evidence, I shall lay it before you in its proper place. The Sixth is, That in order to procure and enlist *William Lawler* to aid the *French*, he did administer and instruct him to repeat an oath, declaration, or catechism, which I will also state by-and-by. The Seventh overt act relates to a conspiracy to subvert the government, and not being laid to be intended by force, you will throw it out of your consideration. The Eighth is, That to procure *William Lawler*, to assist the *French*, he administered an oath to him. These, Gentlemen, are the overt acts laid in the indictment, and in my apprehension, those, which are material for your consideration, may be classed under two heads: First, That he did unite with *Defenders*, and meet and consult with them, for the purpose of joining and assisting the *French*, in case they should invade this kingdom. Secondly, That he did administer a certain oath and engagement to *Lawler*, to enlist, bind, and engage him to aid and assist the *French*, in case they should invade this kingdom.

dom. These two species of overt acts, are clear overt acts of adhering to the King's enemies, which is one of the treasons;—so that if this indictment did not charge the treason of compassing and imagining the death of the King, and was confined solely to the charge of adhering to his enemies, that species of treason, if proved, will be clearly supported. Therefore, Gentlemen, if it should appear, beyond all doubt, that these acts charged were done by the prisoner, or any one of them, then the prisoner is clearly guilty of adhering to the King's enemies; and also guilty of the other species, not directly, but by consequence. But unless you shall be perfectly satisfied, that they, or some of them were done, and that his object was to assist the *French*, whatever other objects he had, you must acquit him of the offence charged. It will be now your duty, to consider the evidence most minutely; for this purpose, I will state the evidence which has been given in this case. The first witness for the Crown, was *William Lawler*; he mentioned, &c. (*Here his Lordship recapitulated the evidence with the utmost accuracy and precision, which being detailed very amply already, it is thought unnecessary to repeat. His Lordship also read the papers, as stated in the indictment and proved, and then observed*) If you, Gentlemen, are satisfied, that this was an engagement to bind this man to aid the *National Convention of France*, it is a clear overt act of adhering to the King's enemies; because it is procuring another person to assist the enemies of the King: If you shall be of opinion, that the words *National Convention*, mean the National Convention of *France*, and if you believe that it was put to this man. Another object of the paper is to destroy all —gs. If you shall be of opinion, that the blank is to be filled up with the word "*King*," it goes to substantiate the other species of treason in the indictment, because our King is included in the number, and every act done to dethrone the King is comprehended in that species of treason of compassing his death. Then the other paper, to which the witness says, he was sworn together with the engagement, states that the person taking it is "to be true and faithful to King George the 3d, whilst I live under the same government." These words are deserving of your consideration, because it is a qualification of the engagement, only, whilst he lives under

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the *same* government, and how far other parts also qualify it, and make it pleasing and agreeable to others, is also for your consideration. Now, to be sure, if this oath were taken alone and by itself, there is nothing in the terms of it, that could tend in any degree, to support the overt acts charged in the indictment. But connecting it with the test taken at the same time, it deserves a very different consideration; and it will be for you, Gentlemen, to consider how far one throws light upon the other. If the object of them be to bind this man to the *National Convention*, to dethrone all Kings, there can be no doubt, that they support the treason charged in the indictment. After the oath was taken, the witness mentioned to you, that *Brady* asked the prisoner, if he knew any person who was to head them, when they rose: that he answered there was one in the *North*. There is no overt act of a rising, or a conspiracy to rise; but if you believe, that this rising was to aid the purposes of the society and to aid the *French*, it goes to support the overt acts. (*Here his Lordship stated remainder of the evidence, and that which was given on the part of the prisoner*). Here, Gentlemen, the evidence closed. It would add materially to the weight of it, if *Alderman James* shewed, how he acquired intelligence of these papers being upon the person of *Kennedy*. If *Lawler* told it to him, or to any other person, it would add to his testimony, because connecting it with his testimony, it would fortify what he said upon his direct testimony, that he saw them with *Kennedy*. But consider whether it is possible the information could have come from any other quarter. However, at the same time, you are also to consider whether it might not be an after thought. You are to determine, from the whole testimony of *Lawler*, and the credit you give to him.

Then it is asked, what is the word *Defender*. There is nothing criminal in the word itself,—it is a name assumed by a set of persons. But the question is, what are the purposes and designs of these people?—Of that you are the proper judges. If their designs and intentions were to adhere to the *French*, and to support them, the charge of adhering to the King's enemies is supported. If their designs were not such, the indictment is not supported. But considering the oath and the test together; supposing them administered, as sworn by *Lawler*, they shew

shew very strongly, what their designs were. That they designed to adhere to the National Convention of *France*, if you believe those words mean the Convention of *France*,—and part is to dethrone all Kings, if you believe that the blank is to be filled up; that shews the design of the *Defenders*, and the witness, if believed, shews the design of this man, in administering it. What were their designs further appears from what *Hart* declared aloud, at *Stoneybatter*; for he declared aloud, that they were to get arms to assist the *French*. So that there he declared what the object was. The oath and test declares it also, if you believe the evidence of *Lawler*.

But it is objected, that the acts for which a man is to answer, must be his own, and that the prisoner was not present at those declarations. But here are his own acts, if you believe the witness, for he is charged with administering this oath and test, an engagement to assist the *National Convention*, and to dethrone all Kings, if you believe these expressions, and the blank are to be so applied. Whatever the designs of the papers were, they are declared by the prisoner, to be designs of *Defenders*, and to be his own principles and designs. So that if it appears from his own acts, it is brought home to himself, and the declaration of the prisoner agrees with the declaration of *Hart*. If they do, *Hart* is a *Defender*, and explains what the object of the test is, namely, to raise arms for the *French*. But this is said, not to be a conspiracy, unless it was a consultation or general talk by a meeting. Why, certainly it may, or may not affect a person present, according to the circumstances of the case, of which you are the proper judges. But here it is sworn, if you believe the evidence, that *Hart* spoke aloud in the meeting, and desired those present, to go out for arms. That was a communication with the whole company,—to seize arms to enable them to be more assisting to the *French*. This is the explanation which *Hart* put upon it himself, in the hearing of the company, and assented to by the company, for they go away to get arms. Then he tells you, that some of the company remained, and those who went away not returning immediately, such as remained were sworn in the manner he described, that they would attend on the *Monday* following, with arms, to go and seize arms. That

That is an act done by *Hart* not to an individual, but addressed to such of the body as remained, and was assented to by them all. But, Gentlemen, I only mention this, as obviating a difficulty thrown out by the counsel. But the whole is for your consideration, and I cannot but observe, that all depends, upon the testimony of *Lawler*. Certainly one single witness is competent to prove the crime of high treason, although it is otherwise *England*: but we must go according to the law of this country, by which one witness is competent to prove the fact. But I say the whole depends upon the testimony of *Lawler*, and before you find a verdict upon his testimony, you must be satisfied with the truth of it. It has been stated, and no doubt the fact is so, that he is a witness subject to great objections. By his own confession, he is an accomplice in the treason. By his own confession, at one time he would not scruple to attempt the life of the King. At present, he is of a different way of thinking. Also by his own confession, he did not shudder at the idea of shedding protestant blood, but that he stopped at the idea of massacring *all*. These are certainly strong objections to impeach the character of the witness. This man is a competent witness, and so far a credible one, because if he were not credible, it would not be of any utility to examine him. You, gentlemen, have heard his story, and you have seen the manner in which he told it to you; that is matter for you to consider, and to ballance against the objections urged to impeach his character. There is no attempt made to discredit the man by producing evidence against him. It has been said, that there has been no attempt by the prisoner to shew, he was not, at the time, in *Barrack-street*, where the oath was administered, that fact being capable of proof, and in that respect, to disprove what was said by *Lawler*. But that receives this answer, and a very full one in my opinion, that no particular time is stated, and therefore he could not be prepared with the proof which has been mentioned. Witnesses have been examined to the prisoner's character, but such evidence is of little weight in this case.

Mr. Justice CHAMBERLAIN. Gentlemen of the Jury. I think it my duty, upon a case of this importance, to make some few observations; but I shall neither recite the

the indictment, nor the evidence, which have been precisely stated to you already by Mr. Justice FINUCANE, and I think he has accurately stated the law to you. However, it might be thought a dereliction of my duty, if I did not say something upon a case of such vast importance. There are two charges in this indictment, one is, compassing the death of the King;—the other is adhering to the King's enemies, now at open war. There can be no doubt that every mean taken to adhere to the King's enemies is an overt act, or in other words, a mean of compassing the death of the King. But it is by construction it is so. It is so settled by a train of authorities, and cannot be disputed; but I do not think it necessary to trouble you, with that branch of the statute. I shall confine myself to the branch of adhering to the King's enemies, because it is plain to every man, and cannot be mistaken; for every man must see at once, what is and what is not, adhering to the King's enemies. Gentlemen, there are several overt acts stated, but I think they may be reduced to two, because the rest are derivative from them. The first is this, that the prisoner did, in order to enlist and procure *William Lawler* to be aiding and assisting the *French*, the enemies of the King, administer an oath of the import you have heard. By that oath, *Lawler* undertook, of his own good will, to be true to his Majesty, King *George the 3d.*, whilst he should live under the government. *Lawler* was, without that oath, bound to allegiance, during the joint lives of himself and the King; and what was the reason of shortening the duration of the allegiance, is, I think, inferrable from the expressions, because, wherever he should go, it was his bounden duty to preserve his allegiance to the King; and *Lawler* is made by this oath, declaration, or catechism, call it what you will, to be obedient to superior officers, to committees and others. Who were these committees and superior officers meant by this instrument, is for your consideration. In my apprehension, it is upon the face of it, internal evidence, that some association of an unlawful nature was on foot. There is no account given of it by the prisoner; but *ex vi terminorum* it implies, that some association was on foot, and some superiors appointed, but how created, or what the Committees were, does not appear from the instrument. but the

the witness has explained, what they meant by *Committeemen*, and all that is evidence to go to you, and the instrument appears to reflect credit upon the witness in his exposition of it. There is another part of it, which is an engagement to meet, when the Committee pleases. So that here is an engagement upon oath, to attend such conventions of this body, as the Committee requires, and gentlemen, if you believe that, my opinion is, that any persons being assembled, using private confidential signals, communicated by the prisoner, they are evidence to go to you, serving as a comment upon the instrument, if it required one;—it is supplemental evidence to shew, what the intention of the prisoner was in administering this oath, provided you believe he did so. This is one of the overt acts. Another of the overt acts is, that he did with intent to enlist, and persuade *Lawler* to be aiding the *French*, traitorously administer another oath, which you have heard more than once repeated. The striking parts are these:—*Lawler* binds himself by this instrument, under the obligation of an oath, “to quell “all nations,”—“dethrone all Kings,”—and “to be “concerned with the *National Convention*.”—The *inuen-*
do as laid is perfectly plain and natural; but you, gentlemen, are the judges whether it is plain, natural and obvious or not. In my opinion, no other possible *inuen-*
do could be stated. This instrument being entered into at one and the same time with the other, may serve as a comment upon the other:—they may be considered as one and the same instrument, and if there be any thing ambiguous in either, you may consider them together, and see whether they do or not, bind the parties taking them, under a solemn engagement to assist the *French Convention*. If you believe that, the inference necessarily follows, that you must be satisfied of the intent. But I think it would be refinement to go further than the instrument itself, and if you believe these engagements were entered into by *Lawler*, and that they were administered by the prisoner, binding him thereto, I think upon the face of the instrument itself, the traitorous intent is apparent. But, gentlemen, it is not the only evidence, because I have said, that the acts of persons, in the secrets of the prisoner, will serve you, to explain this paper, and this, as to the law of the case is the whole of it, and I believe there never was a case involving

volving less law in it. It is a plain and manifest adherence to the King's enemies, providing you understand this paper as I do. But now, gentlemen, there is certainly a question very material, not only to the prisoner, but to the community, and that is, what degree of credit a man, standing in the situation of *Lawler*, is entitled to?—He is an accomplice coming into Court, admitting himself guilty of a crime, of which, if convicted, he could not be received; and acknowledging, that so debased was his mind, that he did not think it any crime to murder his King—that the schemes he was embarked in might be attended with the murder of several of his protestant brethern:—These, gentlemen, are serious objections. One of the most impressive obligations of an oath cannot be supposed to exist in this case—the moral obligation of it—because you cannot conceive, that the mind of a man, embarked in such a conspiracy, is influenced by moral motives. See also, whether he be not deeply interested—whether he might not accuse an innocent man to save himself. But that objection is not so strong here as in ordinary cases, because the man was not in custody when he disclosed this charge; because, if he were, undoubtedly, his swearing to this matter would be more questionable, than if he were at large. These gentlemen, are considerations, which, certainly call for your deepest attention. There is another matter which I must submit to you, and that is, whether this man's testimony, in his accusation of the prisoner, is in any measure corroborated by other circumstances; for it is seldom to be found in the history of our law, that any jury has ventured, upon the single unsupported testimony of an accomplice, to find a person guilty. You may perceive, however, that treason and conspiracy must often go unpunished, if the law laid it down universally, that a jury should not act upon the testimony of an accomplice. Juries do frequently act upon such evidence, and with the concurrence with the ablest and best of judges; and it has been decided by judges in both countries, that a jury may do so, but it is their duty to examine it most attentively; and I must say, that it has very seldom happened, that a jury has found a verdict of conviction upon such single testimony alone. Now see whether there be any circumstance to corroborate him. He said, that the papers, which he identified, were in
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the possession of *Thomas Kennedy*, and Mr. *Oliver Carleton* has sworn, that he did find these very papers, to which *Lawler* stated he was sworn, in the possession of *Kennedy*. Now, certainly, gentlemen, it must strike you most obviously, that this is more confirmatory of the testimony against *Kennedy*, than against *Weldon*, and his testimony may be well confirmed against *Kennedy*, and not against the prisoner at the bar. There is evidence to confirm this man's testimony as to one person charged, and not as to others. I must exhort you, then, to attend to his testimony, and see whether it be consistent in all its parts, and to recollect the manner in which it was given, and if your understandings are absolutely coerced to believe him, then you must find him guilty. But if from the special circumstances any rational doubt rests upon your minds, it will be your duty to acquit the prisoner.

Mr. *Baron GEORGE*. *Gentlemen of the Jury*. I can say, and I am sure with great truth, that it is scarcely necessary, and possible to add any thing to what you have heard from the charges of the two judges, who have addressed you. But, Gentlemen, I think it my duty to submit a very few short observations to you.

Gentlemen, it appears that by far the most important consideration for you is, "what degree of credit is due to the testimony of *Lawler*." For this purpose you are to consider the account given of himself, and the appearance he made upon the table this day. You will recollect his having mentioned, that he went over to the neighbouring kingdom, and there became a member of *The Corresponding Society*—that he obtained a letter from Mr. *Eaton* to Mr. *Rowan*, which he delivered, and you have heard the manner in which he has conducted himself since, from the account he has given you of himself. Gentlemen, it must, no doubt, be a very great stain upon the character of any man, and a blemish upon his credit, that he had, at any period of his life (and that at no distant one) consented to assist in the murder of his King, and of many of his fellow subjects, who never did him any injury. However, Gentlemen, you will also consider what led him to remorse, whether the discovery was made for the purpose of justice, or to protect himself from the consequences of that conspiracy. Consider how far it is probable that this man might entertain these designs, and relinquish them afterwards,

terwards, when the period for carrying them into effect approached nearer to him. I say, Gentlemen, the offence, which he confesses himself capable of entertaining, and of carrying into execution must leave a stain upon his credit; therefore you are to hear his evidence with the greatest caution. You will also recollect, that when it was put to him upon the table, whether he had declared certain impious opinions, how he hesitated.

No doubt, Gentlemen, it was the duty of the Court, to prevent the question being urged, as not being perfectly legal, but juries and judges have their eye sight, and they are to be governed by their senses, and if it be shewn to you, that his moral character is exceptionable, his religious character is liable to exception also. Then, Gentlemen, you will take the account of the transactions he mentioned from his account, and the manner in which he gave it, and connect them with the other evidence produced. No doubt, there has been no witness examined to say, this man is not to be believed upon his oath: nor is his testimony contradicted; nor upon his cross examination does he appear to have contradicted himself. Gentlemen, you will also consider, whether he is corroborated in his testimony, and how far he is so, you are the constitutional judges, by the testimony of Mr. *Carleton*; he says, he was directed by the magistrate, to search the sobs of *Kennedy*, upon whom the *Oath* and the *Catechism* were found. It does not appear how the magistrate came by that information, to know where that *Oath* and *Catechism* were so deposited. But the witness, *Lawler* swore, that they were the identical papers, upon which he was sworn, and that he saw them a fortnight after he was sworn, in the possession of *Kennedy*. It must undoubtedly be, that the magistrate got the information from *Lawler*, or some other person.

Judge FINUCANE has said, that if it appeared by evidence, that *Lawler* had told it, before the arrest, it would strengthen his testimony more than if it appeared from any other quarter. You, Gentlemen, are the judges to determine upon the weight of our observations, to consider the facts and circumstances of the case, and decide upon them all, according to your consciences.

Gentlemen, in this indictment there are two offences laid. But in my humble apprehension that offence to which you ought to direct your attention, is that of adhering to the King's enemies; and before you can find

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the prisoner guilty of that offence you must see, that some one of the overt acts of that species of treason has been proved; and in order that you may not be embarrassed by any matter of refinement, or have your understandings entangled by *construction*, you ought to direct your attention to those overt acts, which charge the prisoner with having, in order to procure *Lawler* to be aiding to the *French*, in case they should invade *Ireland*, administered to him—the *Oath* you have heard—and taught him to rehearse the *Catechism* you have heard. These are two of the overt acts, and if it appear, that the prisoner did those acts, with the treasonable purpose imputed to him, you will be bound to find him guilty. Gentlemen, the proof of having administered that *Oath* and teaching *Lawler* to rehearse that *Catechism* consists of the evidence of the things said and done at *Barrack-street*.—The contents of the *Oath* and *Catechism* have been very fairly commented upon from the Bench; therefore I shall make no further observation upon them than this, that as to the *Oath*, the indictment lays the offence as if administered only in a single instance to *Lawler*. But the form of the oath shews that more was intended, than is laid in the indictment, because it is not merely the form of an oath to be used in that instance only, but it begins, “ I, *A. B.*” shewing that it was not to stop with him, but was intended to swear as many as the purposes of the party might require.

Gentlemen, if there be any thing equivocal in the *Oath* and *Catechism*, you will look into the rest of the evidence to explain it, and I do think, that most of the evidence given can be useful for no other purpose than as matter of explanation, in case any doubt is raised upon your minds. The *Oath*, the *Catechism*—the signs used—the pass-word appear to have been the test and tokens by which *Lawler* was admitted to the several associations in which he attended.—And Gentlemen, lest it should be mistaken by you or any other person, it is right to settle that matter explicitly. I think you are to consider the other evidence, which you have heard, of what was done in the other assemblies, subsequent to that in *Barrack-street*, as explanatory of what was done in the assembly at *Barrack-street*. Because it appears, that *Lawler* was admitted into those subsequent assemblies, in consequence of the signals communicated

nicated to him at *Barrack-street*—he was known by one of the party to have been sworn in. If there were any thing doubtful, I say, what passed in those several assemblies, to which the witness got admittance, will be fair matter to explain what passed at the first. And if it were proved, that the designs of these subsequent assemblies were innocent, and lawful, that would, on the part of the prisoner, clear up the transaction in *Barrack-street*, if there were any thing doubtful in it. Then, gentlemen, if there be any thing doubtful, and it appears, that by the means imparted to him, he got admittance into assemblies where treasonable practices were going forward, will not that be evidence to shew the object of the proceeding in *Barrack-street*. Therefore you see, that if the original transaction was criminal, the subsequent proceedings explain his guilt; and if they were innocent, they would shew his innocence. Therefore, gentlemen, I think the Court were right, in letting in that evidence, to give all the light to the case, which the law allows. Gentlemen, you are to consider this case under all its circumstances; and you are to consider, and be satisfied with, the account given by *Lawler* upon the table; you are to determine, whether you think it true or false, and if under the circumstances, you believe it to be true, you are bound to find the prisoner guilty;—But if you feel such a doubt as reasonable men may entertain, you are then bound to acquit him.

The jury then retired, and came back in about 20 minutes.

Clerk of the Crown. How say Ye, Gentlemen of the Jury, have Ye agreed to your verdict?

Jury. We have.

Clerk of the Crown. Who shall say for you?

Jury. Our Foreman.

Clerk of the Crown. Gaoler, make a bar, set *James Weldon* forward—How say you, Gentlemen of the Jury, is *James Weldon* guilty of the treason whereof he stands indicted or not?

Foreman. Guilty.

The Prisoner was thereupon brought back to Newgate, and the Court adjourned to next day.

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OF THE
PROCEEDINGS

IN

Cases of High Treason,

AT AN ADJOURNMENT OF A COMMISSION OF
OYER AND TERMINER,

HELD IN AND FOR THE
COUNTY AND CITY OF DUBLIN,
IN THE MONTH OF DECEMBER,

1795.

No. II.

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By WILLIAM RIDGEWAY, Esq.
BARRISTER AT LAW.

D U B L I N :

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of John Le Blanc, late of this city, but now of Belfast, is a material witness for the prisoners, without the benefit of whose testimony, they cannot with safety go to trial: that due diligence would have been used to procure his attendance, but that they did not know until after the trial

Mr. Attorney General, My Lords, although I could show, that the affidavit is not sufficient to induce the court to postpone the trial, yet I feel that it is my duty, under the circumstances made it absolutely necessary for the public safety to bring on the trial, to show the prisoners every inducement, and when I do this, I feel a great deal, to state from information, which I have received from yesterday, I should be bound to the court evidence to support that which was given on the part of the Crown, but at present, I will not do so.

REPORT OF THE PROCEEDINGS

IN Cases of High Treason.

Wednesday Dec. 23d, 1795.

BRADY, Kennedy and Hart were this day brought up and being severally asked, whether they were ready for their trials, answered they were not, and an affidavit was sworn by **Kennedy** for the purpose of postponing their trials.

Mr. McNally. My Lords, I am humbly to move your Lordships to postpone the trials of these prisoners, upon the affidavit, which has been just sworn by **Kennedy**, on the part of himself and the other two prisoners. The affidavit states that **John Le Blanc**, late of this city, but now of **Belfast**, is a material witness for the prisoners, without the benefit of whose testimony, they cannot with safety go to trial: that due diligence would have been used to procure his attendance, but that they did not know until after the trial

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of *James Weldon* yesterday, that *Le Blanc's* testimony would be material. The affidavit also states that this application is not made for the purpose of delay.

Mr. Attorney General. My Lords, although I could shew, that the affidavit is not sufficient to induce the court to put off the trial, yet I feel that it is my duty, unless circumstances made it absolutely necessary for the public safety to bring on the trials, to shew the prisoners every indulgence. Therefore, my Lords, I shall not resist this application, and when I do this, I yield a great deal, because from information, which I have received since yesterday, I should be able to lay before the court evidence to support that which was given on the part of the Crown. But at present, I yield to this application.

The trials of these three men were accordingly postponed.

Mr. Attorney General. My Lords, from this alteration in the arrangement which I made for this day, I am not prepared to go on with any other trial.

And thereupon the Court adjourned.

COUNTY COURT.

Thursday, December 24th.

Michael Maguire was indicted for high treason in compassing the King's death and adhering to his enemies; in support of which a number of overt acts were stated, the principal of which was, that in order to enlist *Thomas Roden*, a sifer in the 104th regiment, to join with, and become a *Defender* to aid and assist the persons exercising the powers of government in *France*, he did keep and detain him from his regiment for the space of ten days and did give him during that time, by way of stipend, at the rate of *six-pence* per day.

The indictment is not set forth in this case, the prosecution having been given up, and therefore the reporter would not have mentioned it, except to notice a proceeding which had the appearance of novelty to some; but being sanctioned

sanctioned by the approbation of three judges may serve as a precedent in cases under similar circumstances.

The prisoner having pleaded *not guilty* and a jury sworn, Mr. *Prime Serjeant* stated the case on the part of the Crown, and the witness was called.

THOMAS RODEN, *Sworn.*

Examined by Mr. ATTORNEY GENERAL.

Q. Where were you born?

A. In *Staffordshire*.

Q. What brought you here?

A. I enlisted for a soldier.

Q. In what regiment?

A. In the 104th regiment.

Q. What was the nature of your duty in that regiment?

A. A Fifer.

Q. Did that regiment come to *Ireland*?

A. Yes, please you, my Lord, it came to *Belfast*.

Q. Did you come with it?

A. Yes.

Q. How long ago?

A. Three quarters of a year.

Q. Where did it go to?

A. From *Manchester*.

Q. But after you came to *Belfast*, where did you go to?

A. To *Dublin*.

Q. Look at the prisoner; did you ever see him before?

The witness hesitated.

Q. Which is the man; point out *Michael Maguire*?

A. I neither see *Michael Maguire*, nor *Murphy*.

Q. Do you know *Michael Maguire*?

A. If I should see him, I should know him.

Q. Do you see him?

The witness looked about, but made no answer.—He was then desired to look through all the seats, beginning with the first row, until his eyes reached the Dock.—After doing so, he said—I do not see him.

Q. Look again in the same manner?

A. I do not see him.

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The witness was then desired to withdraw, and the sheriff of the county was desired not to suffer any person to speak to him.

Mr. Attorney General. My Lords, if I believed, that the witness had thrown his eyes towards the Dock, I should desire to have the prisoner acquitted immediately. But the gentlemen round me say, he did not throw his eyes to the Dock. I shall now desire, as has been practised at the *Old Bailey*, that the prisoner may be brought forward to the front seat, and that some persons, as nearly of his own condition in appearance as may be, should be placed there along with him.

This was accordingly done. The gentlemen of the Bar retired from the front seat—the prisoner was placed there, and five or six persons, taken from the crowd of auditors, were placed along with him.

The witness was then brought in, and desired to look at the several persons, sitting in the first seat, beginning at one and looking on to the other.

The witness did so, and after looking at them for some time, he laid his finger upon the head of a person who was not the prisoner.

The witness was ordered off the table and the prisoner was acquitted.

Murphy was then put upon his trial, given in charge to the jury, and the witness not being produced, the prisoner was acquitted.

The Court adjourned,

CITY COURT.

Monday, Dec. 28th. 1795.

John Leary was arraigned upon the following indictment, the caption of which is omitted, as being the same as that set forth in *Weldon's* case.

County of the City of } “ THE Jurors for our Lord the
Dublin, to wit. } “ King upon their oath present that
“ an open and public war, on the twentieth day of *August*,
“ in the thirty-fifth year of the reign of our Sovereign Lord
“ *George the Third*, by the grace of God, of *Great Bri-*
“ *tain, France and Ireland* King, Defender of the Faith
“ and so forth, and long before was and ever since hitherto
“ by

“ by land and by sea hath been and yet is carried on and
 “ prosecuted by the persons exercising the powers of go-
 “ vernment in *France*, against our most serene, illustrious
 “ and excellent Prince our said Lord the now King, and
 “ that *John Leary*, of the city of *Dublin*, yeoman, in the
 “ said county of the city of *Dublin*, a subject of our said
 “ Lord the King, of his kingdom of *Ireland*, well know-
 “ ing the premises, but not having the fear of God in his
 “ heart, nor weighing the duty of his allegiance, and be-
 “ ing moved and seduced by the instigation of the Devil,
 “ as a false traitor of our said Lord the now King, his
 “ supreme, true, lawful, and undoubted Lord, the cordial
 “ love and true obedience which every true and dutiful
 “ subject of our said Sovereign Lord the King towards him
 “ our said Lord the King should bear, wholly withdrawing
 “ and contriving and with all his strength intending the
 “ peace and common tranquillity of this kingdom of *Ire-*
 “ *land* to disturb, and the government of our said Lord the
 “ King of this his kingdom of *Ireland* to subvert, and our
 “ said Lord the King from his royal state, title, honour,
 “ power, imperial crown and government of this his king-
 “ dom of *Ireland* to depose and deprive, and our said Lord
 “ the King to death and final destruction to bring, he the
 “ said *John Leary*, on the twentieth day of *August*, in the
 “ thirty-fifth year of our said Lord the King, and on divers
 “ other days and times as well before as after that day, at
 “ *Suffolk-street*, in the parish of *St. Andrew*, in the city of
 “ *Dublin*, and in the county of the said city of *Dublin*
 “ aforesaid, with force and arms falsely, wickedly and
 “ traitorously did compass, imagine and intend the said
 “ Lord the King then and there his supreme, true and
 “ lawful Lord of and from the royal state, crown, title,
 “ power and government of this his realm of *Ireland* to
 “ depose and wholly deprive, and the said Lord the King
 “ to kill and put to death, and that to fulfil and bring to
 “ effect his most evil, wicked and treasonable imaginations
 “ and compassings aforesaid, he the said *John Leary* as such
 “ false traitor as aforesaid, and during the said war between
 “ our said Lord the King and the persons so exercising the
 “ powers of government in *France*, to wit, on the said
 “ twentieth day of *August*, in the said thirty-fifth year of
 “ the reign aforesaid, at *Suffolk-street* aforesaid, in the parish
 “ of *St. Andrew* aforesaid, and in the county of the said
 “ city of *Dublin* aforesaid, with force and arms falsely and
 “ traitorously

" traitorously did join, unite and associate himself with
 " divers false traitors to the Jurors aforesaid as yet unknown,
 " and did then and there with such false traitors to the Jurors
 " aforesaid unknown, enter into and become one of a party
 " and society formed and associated under the denomination
 " of *Defenders*, with design and for the purpose of aiding,
 " assisting and adhering to the said persons so exercising the
 " powers of government in *France*, and so waging war as
 " aforesaid, against our said Sovereign Lord the now King,
 " in case they should invade or cause to be invaded this his
 " kingdom of *Ireland*. And afterwards and during the
 " said war between our said Lord the King and the said
 " persons so exercising the powers of government in *France*,
 " and enemies of our said Lord the King, on the twentieth
 " day of *August*, in the said thirty fifth year of the reign of
 " our said Lord the King, and on divers other days as well
 " before as after that day, with force and arms at *Suffolk-*
 " *street* aforesaid, in the parish of *St. Andrew* aforesaid, in
 " the city of *Dublin* aforesaid, and county of the said city
 " of *Dublin* aforesaid, he the said *John Leary* as such false
 " traitor as aforesaid, in further prosecution of his treason
 " and traitorous purposes aforesaid, did with divers other
 " false traitors whose names are to the Jurors of our said
 " Lord the King as yet unknown, then and there meet and
 " assemble to confer, treat and consult for and about the
 " adhering, aiding and assisting of the said persons exercis-
 " ing the powers of government in *France* as aforesaid, and
 " being enemies of our said Lord the King, in case they
 " should invade or cause to be invaded this his kingdom of
 " *Ireland*. And afterwards, to wit, on the twentieth day
 " of *August*, in the thirty fifth year of the reign aforesaid,
 " and on divers other days as well before as after that day,
 " with force and arms at *Suffolk-street* aforesaid, in the
 " parish of *St. Andrew* aforesaid, in the city of *Dublin*
 " aforesaid, and county of the city of *Dublin* aforesaid, the
 " said *John Leary* as such false traitor as aforesaid, in further
 " prosecution of his treason and traitorous purposes afore-
 " said, did then and there with divers other false traitors
 " whose names to the said Jurors are yet unknown, wick-
 " edly and traitorously associate and unite himself to and
 " with divers other false traitors unknown to the Jurors
 " aforesaid, and did along with the said false traitors to the
 " Jurors unknown, enter into and become one of a party
 " and society united and associated under the denomination
 " of

“ of *Defenders*, with design and for the end and purpose of
 “ deposing, subverting and overturning the government of
 “ kingdom as by law established, and so associated and
 “ united as aforesaid, did then and there and on divers other
 “ days and times as well before as after that day, with
 “ divers other false traitors to the Jurors aforesaid unknown,
 “ meet and assemble to confer, consult and deliberate on
 “ and about the means and measures for effecting his afore-
 “ said traitorous and nefarious designs and purposes. And
 “ afterwards, to wit, on the said twentieth day of *August*,
 “ in the said thirty-fifth year of the reign aforesaid, and on
 “ divers other days and times as well before as after that
 “ day, with force and arms at *Suffolk-street* aforesaid, in
 “ the parish of *St. Andrew* aforesaid, and county of the
 “ city of *Dublin*, the said *John Leary* as such false traitor
 “ as aforesaid, in further prosecution of his treason and
 “ traitorous purposes, did then and there with divers other
 “ false traitors whose names to the said Jurors are yet un-
 “ known, wickedly and traitorously associate and unite with
 “ divers other false traitors to the said Jurors as yet un-
 “ known, and did along with said false traitors to the Jurors
 “ aforesaid unknown, enter into and become one of a party
 “ and society united and associated under the denomination
 “ of *Defenders*, with design and for the end and purpose of
 “ subverting and overturning the Protestant religion in this
 “ kingdom as by law established, and so associated and
 “ united as aforesaid, did then and there and on divers
 “ other days and times as well before as after that day meet
 “ and assemble with divers false traitors as yet unknown to
 “ confer, consult and deliberate on the means and mea-
 “ sures for effecting his aforesaid traitorous and nefarious
 “ designs and purposes; and afterwards, to wit, on the
 “ said twentieth day of *August*, in the said thirty-fifth
 “ year of the reign aforesaid, and on divers other days, as
 “ well before as after that day, with force and arms, at
 “ *Suffolk-street* aforesaid, in the parish of *St. Andrew* afore-
 “ said, in the city of *Dublin* aforesaid, and county of the
 “ city of *Dublin* aforesaid, the said *John Leary* as such
 “ false traitor as aforesaid, in further prosecution of his
 “ treason and traitorous purposes, did then and there with
 “ divers others false traitors, whose names to the said ju-
 “ rors are yet unknown; wickedly and traitorously, in
 “ order to enlist and procure a liege subject of our said
 “ Lord the King, then and there being, whose name is
 “ to

“ to the jurors aforesaid, as yet unknown, to be aiding
 “ and assisting the persons so exercising the powers of go-
 “ vernment in *France*, and enemies of our said Lord the
 “ King as aforesaid, in case they should invade or cause to
 “ be invaded this his kingdom of *Ireland*, did then and
 “ there traitorously administer a certain profession, decla-
 “ ration, and catechism to the said person, whose name is to
 “ the jurors aforesaid, as yet unknown, to the purport fol-
 “ lowing, that is to say;—I am concerned—So am I.—
 “ With who?—With the National Convention, (mean-
 “ ing thereby the National Convention of *France*)——
 “ What is your designs?—On freedom.—Where is your
 “ designs?—The foundation of it is grounded in a rock,
 “ —What is your designs? Cause to *queal* all nations.
 “ dethrone all —— g’s, (meaning thereby all Kings,) to
 “ plant the true religion in the hearts, be just.—Where
 “ did the Cock crow when the whole world heard him?
 “ —In *France*.—What is the pass word?—Eliphismat-
 “ tis?”—And afterwards, to wit, on the said twentieth
 “ day of *August*, in the said thirty-fifth year of the reign
 “ aforesaid, and on divers other days as well before as af-
 “ ter that day, with force and arms at *Suffolk-street*, in
 “ in the parish of *St. Andrew* aforesaid, in the city of
 “ *Dublin* aforesaid, and county of the city of *Dublin* aforesaid, the said *John Leary* as such false traitor as aforesaid, in further prosecution of his treason and traitorous purposes aforesaid, did then and there with divers other false traitors, whose names to the said jurors are yet unknown, wickedly and traitorously, in order to enlist, procure and corrupt a subject of our said Lord the King, whose name is to the jurors aforesaid, as yet unknown, to be aiding and assisting to the said persons, so exercising the powers of government in *France*, and enemies of our said Lord the King, as aforesaid, in case they should invade or cause to be invaded this his kingdom of *Ireland*, and to bind and engage himself thereto, did then and there traitorously administer to and instruct the said subject of our said Lord the King, whose name to the jurors aforesaid, is as yet unknown, to rehearse and repeat a certain profession, declaration and catechism to the purport following, that is to say;—I am concerned.—So am I.—With who?—With the National Convention, (meaning thereby the National Convention of *France*.—What is your designs?—On
 “ freedom.

“ freedom.—Where is your designs?—The foundation of
 “ it is grounded in a rock.—What is your designs?—Cause
 “ to *queal* all nations, dethrone all ——g’s, (meaning
 “ thereby all Kings, to plant the true religion in the
 “ hearts, be just.—Where did the Cock crow when the
 “ whole world heard him?—In *France*.—What is
 “ the pass word?—Eliphismatis.—And afterwards
 “ to wit on the said twentieth day of *August*, in
 “ the said thirty-fifth year of the reign aforesaid, and
 “ on divers other days as well before as after that
 “ day with force and arms, at *Suffolk-street*, aforesaid,
 “ in the parish of *St. Andrew* aforesaid, in the city of
 “ *Dublin*, and county of the city of *Dublin* aforesaid, the
 “ said *John Leary* as such false traitor as aforesaid, in
 “ further prosecution of his treason and traitorous pur-
 “ poses aforesaid, did then and there with divers other
 “ false traitors, whose names are to the said jurors as yet
 “ unknown, wickedly and traitorously, in order to en-
 “ courage, corrupt, procure and enlist the said person,
 “ whose name is to the jurors aforesaid as yet unknown,
 “ to become one of a party or society formed for the
 “ purpose of subverting the government of this kingdom
 “ of *Ireland*, as by law established, did then and there
 “ traitorously encourage, corrupt, procure and enlist the
 “ said person, whose name is to the jurors aforesaid as
 “ yet unknown, to join himself to and become one of a
 “ party or society formed and united for the purpose of
 “ subverting the government of this kingdom of *Ireland*,
 “ as by law established. And afterwards, to wit, on the
 “ said twentieth day of *August*, in the said thirty-
 “ fifth year of the reign aforesaid, and on divers other
 “ days as well before as after that day, with force and
 “ arms, at *Suffolk-street* aforesaid, in the parish of *St.*
 “ *Andrew* aforesaid, in the city of *Dublin* aforesaid, and
 “ in the county of the city of *Dublin* aforesaid, he the
 “ said *John Leary*, as such false traitor as aforesaid, in
 “ further prosecution of his treason and traitorous pur-
 “ poses aforesaid, did then and there, with divers other
 “ false traitors whose names to the said jurors are yet un-
 “ known, wickedly and traitorously, in order to enlist
 “ and procure said person, whose name is to the jurors
 “ aforesaid as yet unknown, to be aiding and assisting to
 “ the persons exercising the powers of government in
 “ *France*, and enemies of our said Lord the King as afore-
 “ said,

" said, in case they should invade or cause to be invaded
 " this his kingdom of *Ireland*, and then and there traitor-
 " ously administer and cause to be administered, an un-
 " lawful oath to the said person, whose name is to the
 " jurors aforesaid as yet unknown, to the purport follow-
 " ing, that is to say, " I, A. B. of my own good will and
 " consent, do swear to be true to his Majesty King
 " *George* the Third, whilst I live under the same govern-
 " ment—More, I swear to be true, aiding and assistant
 " to every brother bound to me by this application, and
 " in every form of article from its first foundation,
 " *January* 1790—And in every amendment hitherto—
 " And will be obedient to my committees, superiors com-
 " manders and officers, in all lawful proceedings and not
 " otherwise, nor will I consent to any society or any
 " brother of an unlawful character, but will observe and
 " obey the laws and regulations of my committee to
 " whom I belong determined brother, nor in any violation
 " of the laws but to protect my life and property, and
 " the lives and properties of my brethern—And I will
 " subject myself to my committee-men in all lawful pro-
 " ceeding and not otherwise, during the reign of his
 " Majesty King *George* the Third, whilst I live under
 " the same government—I likewise swear I will meet
 " when and where my committee will please, and will
 " spend what is pleasing to president and company—I will
 " not quarrel nor strike any person whatsoever, know-
 " ing him to be such, but will live lovingly and friendly
 " with every one under that denomination—I will not
 " rise any fight or quarrel on account of my present
 " intrus, or back that for unto my brotherhood." And
 " the said jurors of our said Lord the King upon their
 " oath further present, that an open and public war on
 " the said twentieth day of *August*, in the thirty-fifth
 " year of the reign of our said Lord *George* the Third
 " and so forth, and long before was and ever since and
 " hitherto by land and by sea, hath been and is carried on
 " and prosecuted by the said persons exercising the powers
 " of government in *France*, against our most serene,
 " illustrious and excellent prince *George* the Third, now
 " King of *Ireland*, and so forth. And that the *John*
 " *Leary* a subject of our said Lord the King of his king-
 " dom of *Ireland*, well knowing the premises, not having
 " the fear of God in his heart, nor weighing the duty of
 " his

" his allegiance, but being moved and seduced by the
 " instigation of the Devil, as a false traitor against our
 " most serene and illustrious and excellent prince *George*
 " the Third, now King of *Ireland*, and so forth: and
 " contriving, and with all his strength intending the
 " peace of this his kingdom of *Ireland* to disturb, and
 " the government of this his kingdom of *Ireland* to sub-
 " vert, he the said *John Leary*, on the twentieth day of
 " *August*, in the thirty-fifth year of the reign aforesaid, and
 " on divers other days and times as well before as after
 " that day, with force and arms, at *Suffolk-street* aforesaid,
 " in the parish of *St. Andrew* aforesaid, in the city of
 " *Dublin* aforesaid, and county of the said city of *Dublin*
 " aforesaid, unlawfully and traitorously was adhering to
 " aiding and comforting the said persons exercising the
 " powers of government in *France*, and then being
 " enemies of our said Lord the King as aforesaid, and
 " that in the prosecution, performance and execution of
 " the said traitorous adhering of him the said *John Leary*,
 " to the persons exercising the powers of government in
 " *France*, and being enemies of our said Lord the present
 " King, and the said persons so exercising the powers of
 " government in *France*, to wit, on the said twentieth day
 " of *August*, in the said thirty-fifth year of the reign
 " aforesaid, at *Suffolk-street* aforesaid, in the parish afore-
 " said, and in the county of the city of *Dublin* aforesaid,
 " with force and arms, falsely, maliciously and traitor-
 " ously did join, unite and associate himself to, and with
 " divers false traitors to the jurors as yet unknown, and
 " did then and there, with such false traitors to the jurors
 " aforesaid as yet unknown, enter into and become one
 " of a party and society, formed and associated under the
 " denomination of *Defenders*, with design and for the
 " purpose of aiding, assisting and adhering to the said
 " persons so exercising the powers of government in
 " *France*, and so waging war as aforesaid, with our said
 " Sovereign Lord the King, in case they should invade
 " or cause to be invaded, this his kingdom of *Ireland*.

The indictment then set out the same overt acts as are contained in the first count.

The prisoner pleaded *Not Guilty*, and the Sheriffs having returned their pannel, it was called over.

Sir James Bond, Bart. Challenged peremptorily by the prisoner,

Hugh

Hugh Carncross, Esq. Challenged peremptorily by the prisoner.

Joseph Dickinson, Esq. Same.

Lundy Foot, Esq. Same.

Hugh Crothers, Esq. Sworn.

George Overend, Esq. Sworn.

Daniel Geale, Merchant. Sworn.

Samuel Tyndal, Merchant. Sworn.

William Dickinson, Merchant. Challenged peremptorily by the prisoner.

William Galway, Merchant. Same.

William Thompson, Merchant. Same.

Isaac Maunders, Merchant. Same.

Robert King, Merchant. Set by on the part of the Crown.

Richard Jackson, Merchant. Sworn.

John Minchin, Merchant. Challenged peremptorily by the prisoner.

Simon Verpoyle, Merchant. Same.

David Weir, Merchant. Same.

Henry Charles Sirr, Esq. Same.

Samuel Middleton, Esq. Same.

Benjamin Woodward, Merchant. Sworn.

Mead Nesbitt, Merchant. Set by on the part of the Crown.

John Rutherford, Merchant. Same.

George Armstrong, Merchant. Sworn.

Thomas Prentice, Merchant. Set by on the part of the Crown.

Thomas Wilkinson, Merchant.

Jonas Pasley, Merchant. Challenged peremptorily by the prisoner.

Edward Armstrong, Merchant. Sworn.

Godfrey Pillsworth, Merchant. Set by on the part of the Crown.

George Carleton, Merchant. Challenged peremptorily by the prisoner.

William Mullock, Merchant. Set by on the part of the Crown.

John Farange, Merchant. Challenged peremptorily by the prisoner.

William

William M'Kenzie, Merchant. Challenged peremptorily by the prisoner.

Archibald Tredennick, Merchant. Sworn.

Edward Whitehead, Merchant. Set by on the part of the Crown.

James Atkinson, Merchant. Sworn.

Hugh Cochran, Merchant. Challenged peremptorily by the prisoner.

Frederick Dugdale, Merchant. Set by on the part of the Crown.

Cornelius Gautier, Merchant. Sworn.

THE JURY.

Hugh Crothers.
George Overend.
Daniel Geale.
Samuel Tyndall.
Richard Jackson.
David Weir.

Benjamin Woodward.
George Armstrong.
Edward Armstrong.
Archibald Tredennick.
James Atkinson.
Cornelius Gautier.

The prisoner was then given in charge to the Jury, and Mr. *Attorney General* stated the case, pretty much to the same effect as in *Weldon's* trial, the reporter therefore does not think it necessary to insert it, particularly as any thing new, which arose in the case, was fully observed upon in speaking to the evidence.

William Lawler was produced, but before he was sworn,

Mr. *M'Nally*. Do you believe in the existence of a God, and rewards and punishments hereafter?

A. I do.

The witness was then sworn.

Examined by Mr. PRIME SERJEANT.

Q. Of what country are you?

A. Of Ireland, Sir.

Q. To what profession, or trade were you bred?

A. To the Protestant religion.

Q. To what trade?

A. The gilding.

Q. Where have you worked?

A. In Ireland.

Q. Any

- Q. Any where else?
 A. In *England*.
 Q. At what time have you worked there?
 A. In the year 1791.
 Q. What time did you return?
 A. Two years.
 Q. During your residence in *England*, were you of any society?
 A. Yes.
 Q. What society?
 A. The *London Corresponding Society*.
 Q. After your return to *Ireland*, did you become a member of any society in *Dublin*?
 A. I did.
 Q. Of what society?
 A. I do not know the name of it.
 Q. What became of that society?
 A. It was dissolved.
 Q. Did you become a member of any other?
 A. I did.
 Q. Of what?
 A. The *Telegraphe* and *Philanthropic* societies.
 Q. These were two different societies?
 A. Yes.
 Q. Do you remember the name of any person, who was a member of either, or which of them?
 A. *John Burke* belonged to them both.
 Q. Do you recollect what the general subject of discussion, or debate was?
 A. After *Burke* found the first society was dissolved, and he was expelled the College, he collected *ten* persons, I was one, and he told us the object of each was to get *ten*, and each of these *ten* was to get *five*, as they would have a number sufficient to take the castle. One hundred were to get soldiers' clothes, by which the citizens would think the soldiers had joined them.
 Q. In the course of last summer, did you become a member of any other society?
 A. When we had made up our *ten*, we were to inform *Burke*, and having made up *my ten*, I did inform him, and he got a room in *High-street* for the different tens to meet in.
 Q. Did they meet?

A. They

A. They did, and he called it the *Philanthropic Society*; and any member proposed any friend he thought proper, and he accordingly was elected a member.

Q. Pray Sir, have you ever heard of any party or set of men, known by the name of *Defenders* in this country?

A. I have.

Q. Were you ever admitted a *Defender*?

A. I was, in *Barrack-street*.

Q. And by whom?

A. By *Weldon*.

Q. What *Weldon*?

A. Of the *Black Horse*.

Q. Do you recollect the manner in which you were admitted?

A. By an oath administered, or declaration; two papers were read.

Q. Where are they?

A. I do not know.

Q. I will shew them to you—look at these papers? (producing two papers.)

A. These are the papers I was sworn to by *Weldon*.

Q. Was any other communication made to you; any sign; or signal?

A. *Weldon* shewed me the signs, so as to know a *Defender*.

Q. Shew them to the jury?

A. *Weldon* told us when we were in company, and wanted to know a *Defender*, the sign was, to put the two hands joined backwards upon the top of the head, and pretend to yawn, then to draw the hands down upon your knee, or upon the table. Then the other answers, by drawing the right hand over the forehead, and returning it upon the back of the left hand: The person in answer, or reply to that, draws the left hand across the forehead, and returns it to the back of the right hand. Upon shaking hands, they pressed the thumb of the right hand upon the back of the left, and not to be afraid to hurt the person, and if they asked, what was the pass word, *Eliphismatis*.

Q. Did you ever see these papers in the possession of any man of the name of *Kennedy*?

A. Yes, sir.

Q. And you told Alderman *James*, that he would find them with *Kennedy*?

A. Yes.

Where?

Q. Where ?

A. At the post office.

Q. In what part about *Kennedy* ?

A. In his fob.

Q. After you were sworn in *Barrack-street*, was there any mention of any future meeting ?

A. *Weldon* was asked when there would be any meeting : he said there would be a meeting in *Thomas-street*, he believed, in the course of the next week, and he would inform *Brady* to let us know.

Q. How soon after you were sworn, was there any meeting, at which you were present ?

A. I do not know. It was of a *Sunday*,

Q. Can you form any belief as to the time, whether a week, or a month ?

A. It was not long after.

Q. Where was that meeting ?

A. In *Plunket-street*, it was *Brady* and *Kennedy* brought me there. I was walking on a *Sunday* and they brought me there.

Q. Do you know *John Leary* ?

A. Yes, sir.

Q. Point him out to the Court and the Jury ?

A. There he is in the *Dock*.

Q. Be so good as to tell the Court and the Jury, who were at the meeting in *Plunket-street*, as you know ?

A. *Brady* and *Kennedy*.

Q. Who else ?

A. I cannot say exactly.

Q. Can you say, was *Leary* there ?

A. I think the first place I saw him, was at *Stoneybatter*.

Q. Then am I to understand you to say, whether he was at *Plunket-street*, or not ?

A. He might be there for ought I know.

Q. And you do not know, he was at *Plunket-street* ?

A. I do not.

Q. How long after the meeting at *Plunket-street* was the meeting at *Stoneybatter* ?

A. I cannot say.

Q. I do not mean that you should tell exactly—It was after the meeting at *Plunket-street*.

A. Yes, sir.

Q. You

Q. You saw *Leary* there?

A. Yes.

Q. You are positive you saw him there?

A. I did.

Q. How came you to go there?

A. *Walsh*, a tailor, told me of it.

Q. And you went with him there?

A. Yes.

Q. In what character did you go there?

A. As going to *Defenders*.

Q. Was any person sworn at that meeting?

A. *Hart* brought in a young man and another along with him.

Q. Was there any oath administered, or any book produced?

A. *Hart* had a book in his hand. The young man seemed unwilling at first. *Hart* said, the object was, to assist the *French*, when they would come.

Q. Did you hear him make that declaration?

A. I did, and all present, or else they must be deaf.

Q. Was *Leary* present, I ask you again?

A. He was.

Q. Was there any objection made to what *Hart* said by any body?

A. No, sir.

Q. After the man was sworn, did *Hart* do any thing else?

A. He had sent some to get arms that night, pistols, and swords:—he desired them to bring what they had, as they intended to go out that night; that they knew a young man at one of the houses where they intended to go. *Leary* seemed to be a little in liquor at the time.

Q. After the young man was sworn did any thing else happen?

A. *Hart* gave the signs and the pass-word, *Eliphismatis*.

Q. Did he give the same sign, that *Weldon* gave you?

A. He did.

Q. Did you hear the purport of the oath administered by *Hart*?

A. No.

Q. After swearing, was there any proposal made by *Hart*?

A. He desired such of the young men as were present, who had not arms, to go and get arms.

Q. (By the Court. Had any one arms there?

A. I had a sword, and pistol.)

Q. Was there any other person with arms?

A. I did not see any.

Q. Did *Hart* exercise any authority, or do any other act?

A. He was a committee-man, and in consequence of the persons not returning, he desired every person present to come to the table, and lay their right hands upon it, and on their oath to come the next night with arms.

Q. Did the company obey?

A. Every one that was present.

Q. Was *Leary* present?

A. I cannot say, he was present just at that time.

Q. You say, he was present at the time, the oath was administered?

A. He was.

Q. And at the time the declaration was made by *Hart* of the motives?

A. Yes.

Q. After that conversation, were any arms taken?

A. Not as I know of. I saw *Murphy* since; he told me arms were taken.

Q. Had you any conversation with *Leary*?

A. I had, at his own place.

Q. When was that?

A. In the course of the week after.

Q. What did he tell you of the proceedings of that night?

A. He said they went to one house, where there was a great noise, and a ringing of a bell—that they had a stone to throw the pannel in: he had a blunderbuss in his hand, and had gone round to the corner of the house to see the person ringing the bell; he could not see the bell, and believed it was in the chimney—not seeing it, he came back and struck the pannel with the butt-end of the blunderbuss and broke in the pannel, and also broke the stock of the blunderbuss.

Q. (By the Court. Where was this house?

A. At one side of *Blackhorse-lane*.

Q. Was

Q. Was it the same night?

A. I cannot say.

Q. What night did you understand it was?

A. I understood from *Leary* it was the same night that I had left them, that they had gone out.)

Q. What more did he say was done afterwards?

A. He said, he ran up stairs, saw the person ringing the bell, and tripped the legs from under him.

Q. I forget whether you said he gave any account of what became of the blunderbuss?

A. He said, that after tripping the legs from under the man, they took away the arms that were in the house.

Q. But what became of the blunderbuss he had?

A. I understood from him, that he had left it with a person to be mended.

Q. Did you see *Hart* afterwards?

A. I did.

Q. Had you any conversation with *Hart* as to what passed?

Court. Was *Leary* present?

A. No.

Court. Then this is not evidence.

Mr. *Prime Serjeant*. My Lords, I do not wish to press it. But here was a direction given by *Hart*, and I want to shew how it was followed up.

Mr. *Justice CHAMBERLAIN*. I think it is not evidence unless *Leary* was present.

Q. Do you know what became of the arms which were taken that night.

A. *Leary* told me afterwards, when we were walking up *Blackhorse-lane* and we came to a house, that it belonged to a committee-man, and that the arms were lodged in a hay-stack belonging to that man.

Q. (By the Court. Do you recollect the day?

A. I do not, it was either of a *Monday* or *Tuesday*.

Q. Was it the *Monday*, or *Tuesday* after the meeting?

A. No.)—He had a pair of women's shoes, which he had mending and was going home with them; we went up *Blackhorse-lane* and we turned into a house. There were

were some men sitting down, in a place where they had drawn home some hay. *Leary* spoke to one of them, whom he told me afterwards belonged to the place. He pointed out to me the place where the hay had been, under which the arms had been put. But the hay was not then in the place at that time we saw it. He said the man told him a person came to take away the arms as the hay was to be removed.

Q. (*By the Court.* You say there was no hay upon the place where the arms had been?

A. There was not. Both the hay and the arms were removed, for I could not see any.

Q. Do you say the prisoner told you the arms had been removed?

A. He said, the man, who owned the place told him, that he gave notice to the people to remove the arms, as he was to take away the hay.)

Q. You said the owner of the hay was a *Committee-Man*?

A. So *Leary* told me.

Q. Describe the situation of the house?

A. The house was on the right hand of the lane, but we went in at a gate, and when we entered the gate, the house was on the left side.

Q. Did *Leary* tell you with whom he left the blunderbuss?

A. I do not recollect.

Q. Did he tell you the place?

A. No.

Q. Was you at any meeting, after the meeting at *Stoneybatter*?

A. I was, at *Nowlan's* in *Drury-lane*.

Q. Were you at any other?

A. I was at *Toole's*, the upper end of *Cook-street*, where I was taken.

Q. Did you know there was to be a meeting there?

A. I did.

Q. Did you suppose it to be a meeting of *Defenders*?

A. It was: after the army had been after some of them, I saw *Murphy*, who had been taken up and was afterwards let out.

Q. But did you ever tell any person, that there would be a meeting at *Toole's* in *Cork-street*?

A. I did.

Q. Whom?

Q. Whom?

A. Mr. Cowan and Alderman James.

Q. You told of this meeting?

A. I told them of it before. It was after I gave my information, that these persons went to Toole's. I knew they were to meet there to be out of the way—Dry and others were to meet—but I had given informations of them before, and it was settled, that I should be there.

Q. You talked of a meeting at Nowlan's?

A. Yes: in Drury-lane.

Q. Who was at that meeting?

A. Coffey was in the chair; Dry, Turner, Cooke, Hart, Lewis, Kennedy, and Flood.

Q. You have seen all these people at different meetings of Defenders before?

A. I had not seen Lewis—Leary was not there.

Q. Do you recollect any particular conversation with Hart there?

Mr. McNally. My Lords, I object to this evidence. The witness has sworn, that Leary was not present, and therefore no conversation can be evidence.

Mr. Prime Serjeant. I have the authority of this court for this evidence upon the former trial.

Mr. Baron GEORGE. That came out upon the cross-examination.

Q. When did you discover all you have told, and why, and to whom?

A. I told it to Mr. Cowan in Grafton-street.

Q. Why did you tell it?

A. In consequence of what Hart told me.

Q. What was that?

Mr. McNally. I object to that question.

Mr. Prime Serjeant. This is not to affect the prisoner. Surely, the witness may tell what was his motive.

COURT. The private conversation between him and Hart was objected to upon the former trial and refused to be admitted upon the direct examination. It afterwards came out upon the cross examination. Any motive or avowal by Hart in the absence of Leary is not evidence.

Q. When was the meeting at Toole's?

A. On the Saturday after.

Q. Was

Q. Was there any general proposal of any kind made at Newlan's?

Mr. McNally. I object to that.

Mr. Justice CHAMBERLAIN. We are of opinion, that all acts done at general meetings are evidence; but the private declaration of an individual, not communicated to the body, or at all adopted by it, are not evidence.

Q. Was there any general proposal made to the meeting?

A. Coffey wanted to know, what number of *Defenders* were in *Dublin*, that they might have officers.

Q. Was there any money collected?

A. None, but twopence a-piece for the beer that was drank.

Q. Was there any proposal, or demand for money at *Plunket-street*.

A. I was asked for six-pence.

Q. For what purpose?

A. To buy powder.

Q. Was there any money given?

A. I said I had none. *Kennedy* gave me a shilling; I laid it down and took up six pence and gave it to *Kennedy*.

Q. What brought you to *Plunket-street*?

A. *Brady* and *Kennedy* brought me there. They said they were all *Defenders*.

Q. (*By the Court.*) Was there any signal made use of?

A. No, there was not.

Cross examined by Mr. McNALLY.

Q. You have sworn, that you believe in God. Have you made any declaration to the contrary?

A. Never. I was at a meeting with *Galland*, *John Burke*, and *Le Blanc*, who would wish to persuade me, that there was no Saviour. But I never heard any one say, or deny, that there was a God.

Q. And you always, I presume have held a contrary doctrine?

COURT. He is not bound to answer that question.

Mr. McNally. In the case of the *King v. Taylor, Peake's N. P.* a witness was asked as to his belief in *Jesus Christ*, that was not thought a proper question.

But

But to ask him as to his belief of a God is a legal question.

Q. You said you were taught to believe in the Protestant Religion, and that there was a Saviour?

A. I was.

Q. Have you always, and do you yet adhere to those opinions.

A. These men, whom I mentioned before, had with their doctrine almost persuaded me, that there was no Saviour, but I saw since through it.

Q. You mentioned the names of *Galland* and *John Burke*—why did you not mention the christian-name of *Galland*?—As you are a christian, do you not know the christian name of *Galland*?

A. I do not know.

Q. Are there not two persons of that name?

A. There are; the man I speak of was an engraver.

Q. You have seen through all their false doctrine? How long have you been converted?

A. Since that time, three quarters of a year.

Q. Was it since you gave information to *Alderman James*, or before?

A. It was before.

Q. You were a christian before you went to *Alderman James*?

A. Yes.

Q. Is that the truth?

A. It is.

Q. You were bred a carver and gilder?

A. I was.

Q. To whom did you serve your time?

A. I was bound to Mr. *Robinson* in *College-green*.

Q. Does he now live in *Capel-street*?

A. I have seen the name over a shop there, but I do not know whether he is the man, or owner of the shop.

Q. Do you not believe, that the *Jack Robinson*, who formerly lived in *College-green* and the *Jack Robinson* in *Capel-street* is the same person?

A. I believe so.

Q. Have you never seen him in *Capel-street*.

A. I might, or not in that shop.

Q. Do you not know, as a gilder, every man of eminence in that line, keeping a shop?

A. I do

A. I do not recollect ever seeing at that place, the name of *Robinson* up, only that time.

Q. Do you believe there are two *Cowan's* carrying on the same business in *Dublin*?

A. There are; himself and his son.

Q. They live in one house?

A. As I hear.

Q. If there were another, would you not hear of it?

A. I believe so.

Q. And by the same rule would you not know, if there were two of the name of *Robinson*?

A. I have heard, he is the same person.

Q. How long did you live with him?

A. About three years.

Q. How long were you bound to serve him?

A. Seven years.

Q. Then you served only three out of seven?

A. That is all.

Q. You were a confidential servant to him?

A. I was an apprentice to him.

Q. He had always a good opinion of you as an honest and fair young man?

A. I cannot say that he had at one time, or he would not have done what he did.

Q. What was that?

A. He gave me a good horsewhipping.

Q. He never made any charge upon your integrity?

A. He did.

Q. What was the charge?

A. There were women, who used to work at the gilding business over the front shop and the men at carving in the room over that up stairs. There were some small frames missing. Mr. *Twigg* and one *Ryan* were called up to the gilding-room, and had some conversation; Mrs. *Robinson* called me to go to the master for a shilling, and I understood, that afterwards *Twigg* informed him, I was listening. I said I was not; they brought me up and charged me with taking those things. I denied it. Mr. *Robinson* brought up a rattan with a ferrule upon it, and he laid on me. In the evening Mrs. *Robinson* brought me some supper. I could not take it at the time and got my things and went away, I went to a woman, who had nursed me, and the people in the house not hearing me, I slept in the little-house all night, and when the men went out in the morning

ing, I told the woman what happened between me and *Jack Robinson*.

Q. Was that the only charge against you?

A. That was all.

Q. Do you forget the punch-ladle, Mr. *Lawler*?

A. No.

Q. Were you never charged with stealing a punch-ladle from *Champion*?

A. Never.

Q. Were you never charged with stealing a punch-ladle, which your mistress sent by you to a silversmith?

A. No.

Q. You are an excellent workman?

A. I cannot say.

Q. What made you leave *Robinson*?

A. In consequence of that leathering.

Q. How soon after you left Mr. *Robinson*, did you go to *England*?

A. After serving the remainder of my time to *Williamson* in *Grafton-street* I went to *Gallagher*, he having spoken to me before I was out of my time.

Q. (*By the Court.* Did *Robinson* assign your indentures?)

A. I was informed, he ran away.)

Q. You went to *England*?

A. I did.

Q. And was a member of the *Corresponding Society*?

A. Yes.

Q. Did you honour that Society with the name of *Lawler*?

A. No.

Q. What then?

A. With the name of *Wright*.

Q. What *Christian* name?

A. *William Wright*.

Q. What was your motive for changing your name?

A. I had listed in the 29th regiment of foot.

Q. How long did you remain with that regiment?

A. About a month.

Q. You were an attested soldier?

A. I was.

Q

Q. By

Q. By virtue of your integrity, Mr. *Wright Lawler*, when you deserted, did you not break the oath you had taken?

A. I do not know what oath I took. But I took one.

Q. After you had deserted, you went into the *Corresponding Society* by the name of *Wright*?

A. I did.

Q. Where did it usually meet?

A. One division met in *Bishopsgate-street*.

Q. Was that the division you belonged to?

A. Yes.

Q. Did they meet in the day, or in the night?

A. In the evening.

Q. Is not *Bishopsgate-street* one of the most public streets in *London*?

A. It is a wide street.

Q. And a great thorough-fare?

A. There are a great many pass there; but *Cheapside* is more public.

Q. After you deserted, you went to *London* to conceal yourself?

A. I did live there.

Q. You went there publicly?

A. I cannot say publicly, because there was not one in a hundred who knew me.

Q. Did you walk the streets publicly, or go in a sedan chair to the Society?

A. No, nor in a hackney coach.

Q. You have led a remarkable life, since you came to *Dublin*?

A. An honest life; I never cheated any man.

Q. How long is it since you were wounded?

A. The *Philanthropic Society*, *Burke*, *Le Blanc*, *Flood*, and several more were together: a man belonging to *Ringfend*, I can't think of his name, was in custody in a watch-house, and they agreed on a meeting to go there and take him out, which we did, and one *Thompson*, who had a hanger, cut me, when I went in.

Q. (By the Court. Was he a man of the watch?

A. No:—one of the Society.)

Q. Who instituted that Society?

A. I acquainted *Burke* I had made up my ten.

Q. Were you not the root from which it sprung?

A. I made

A. I made up my ten.

Q. Who made the proposal for the rescue?

A. I did.

Q. Were you armed as well as the rest?

A. I was.

Q. With what?

A. Pistols.

Q. How many?

A. Four.

Q. How many ball cartridges had you at that time?

A. Not one.

Q. Were there any shots fired that night?

A. There was a pistol fired.

Q. Who fired it?

A. Am I to answer.

COURT. You are not bound to criminate yourself.

Q. Do you know who fired the pistol?

A. I do.

Q. Do you choose to answer?

A. If your Lordships think I am bound to criminate myself, I will answer.

COURT. You are not bound to answer to criminate yourself.

Q. Was the prisoner taken out of the police-house that night?

A. I did not see him that night, but I heard he was taken out.

Q. When you heard the shot, you scampered off?

A. I did not scamper off.

Q. Why did you leave the place?

A. Because I was cut in the hand.

Q. Who generally acted as president of the *Philanthropic* and *Telegraphic* Societies?

A. Sometimes one and sometimes another.

Q. Did you know a man of the name of *Lawler* there?

A. I believe, I did.

Q. Who was Treasurer?

A. I was to one Division.

Q. On your oath was not the *Philanthropic* Society instituted originally for the purpose of reading, and were there not subscriptions for the purpose of buying a library?

A. It

A. It was to act as a *Philanthropic* Society, that was the name they put on it, as lovers of mankind.

Q. Were they to murder one part of their fellow-subjects?

A. They were all ready to do what the *Telegraphic* would do.

Q. Was not the *Philanthropic* Society dissolved in consequence of a sanguinary proposal made by a person?

A. The *Philanthropics* were to meet at *Nowlan's* on the 23d of *August*, the same day the *Defenders* were to meet in *Cork-street*.

Q. You were a member of both Societies—which were you to meet that day?

A. I went to *Dry*.

Q. You went to the *Defenders*?

A. After I went there, *Dry*, *Coffey* and *Kennedy* went with me to *Nowlan's*.

Q. Did you not leave the *Philanthropic* society because they would not do an injury?

A. No.

Q. Was not that society instituted for the purpose of improvement?

A. *Burke* and *Le Blanc* proposed reading, writing and learning *French*, which ever they chose, and they subscribed to buy paper—But it was a cloak, for if any one came in, they could do nothing to them, as they were only learning to read and write.

Q. (By the Court. They were to learn *French*?

A. They were.

Q. Was it through *Le Blanc*?

A. He was to have taught it.)

Q. You were treasurer to this society?

A. Yes: to the *Philanthropics*; one part of it.

Q. Were you ever examined as a witness in a court of justice before the trial of *Weldon*?

A. No.

Q. Never in *England*?

A. No, sir.

Q. Was there ever a charge exhibited against you in *England*?

A. No.

Q. Do you remember the transaction of the *Dog* and *Duck*?

A. There

A. There is not a man in *England*, who would not give me a good character as to that.

Q. Were you ever charged with stealing a watch?

A. Never.

Q. With stealing any thing?

A. But by *Robinson*.

Q. Did *Gallagher* throw out any imputation as to integrity?

A. I do not recollect that he did.

Q. Did you never hear, that he made any charge upon you?

A. Not to my knowledge.

Q. Did neither he, nor his wife?

A. They did not:—after I left him, he gave me a great quantity of goods, and Mrs. *Gallagher* said it was better to keep a trotting horse than a gilder, he used so much coals and candles.

Q. Was there any charge of cruelty exhibited against you in that family?

A. I never did any act of cruelty.

Q. Was there no charge made against you?

A. No. If I did, I do not think he would give me a stroke of work.

Q. Were you never charged with putting out an old woman's eye?

A. There was a small bottle of eye-water, and it was said there was spirit of turpentine put into it. I was innocent of the charge.

Q. You have said the prisoner was not present at *Plunket-street*.

A. I did.

Q. What part of *Stoneybatter*, was the meeting in?

A. The corner of *Arbour-hill*.

Q. Is it not at this side of the maypole?

A. I do not know where the pole is.

Q. There was an oath proposed to a person unknown, did you never see him after?

A. Never to my knowledge.

Q. Did you before?

A. Never.

Q. Did you ever enquire his name?

A. No.

Q. Had you seen *Leary* that evening before?

A. Not to my knowledge.

Q. Did

- Q. Did you see him that evening after ?
 A. In the course of the week after.
 Q. But after the meeting broke up did you see him ?
 A. No.
 Q. He was a little in liquor ?
 A. Yes.
 Q. You were near the door—How near was he to you ?
 Q. I do not know whether he was in the room at the time the oath was put.
 Q. And you do not know, whether he heard the oath put ?
 A. No.
 Q. Nor whether he saw the signs you mentioned ?—Will you swear he was in the room at the moment the oath was taken ?
 A. No.
 Q. You did not hear the oath ?
 A. No.
 Q. How came it that you heard what *Hart* said, and did not hear the oath ?
 A. There were two windows in the room and some got into the windows to prevent people from looking in, and some got round him and the stranger.
 Q. You were armed ?
 A. Yes.
 Q. Where did you carry your arms ?
 A. My sword was under my coat, and pistols were in my pocket. I was desired to bring them there.
 Q. They were concealed ?
 A. They were.
 Q. Did you take them out ?
 A. I opened my coat to shew them.
 Q. Did every one in the room see the arms ?
 A. *Hart* did, and several saw the arms, because I opened my coat and shewed them.
 Q. Was there any person armed but you ?
 A. They said, they were not ?
 Q. You believe what they said ?
 A. I do.
 Q. There was a man there armed with a fiddle ?
 A. There was a fiddle playing in the house ; I think it was up stairs.
 Q. Not in the room where you were ?
 A. No.

A. No.

Q. Where was the house broke open, that you spoke of?

A. On one side of *Blackhorse-lane*.

Q. Was that matter ever made public?

A. Not as I saw.

Q. No reward by the owner of it?

A. Not as I saw.

Q. Did you ever make any enquiry about it, or the name of the person whose house it was?

A. No, I did not enquire. The day *Leary* and I was out, he shewed me a house at the right hand, where they had been. There was a gate opposite to us, and they went over that gate to the house.

Q. You did not mention a word of this upon your direct examination?

A. I was not asked as to that.

Q. You were sworn to tell the whole truth?

A. I told nothing else.

Q. When you appeared upon the former trial, did you say a word about this house—Did you, or did you not?

A. I did not, but I knew it.

Q. Did you say any thing upon the last trial, any thing of what you have stated, when you mentioned that *Burke* was expelled from the College?

A. I said, I belonged to the society.

Q. But did you say any thing as to *Burke's* proceedings?

A. No, I was not asked.

Q. Do you recollect any thing upon the last trial, respecting his sacred Majesty?

A. How, as to *Weldon*.

Q. No—but respecting the King?

A. I do: *Weldon* told me when I took the test, that if the King's head was off to-morrow, there was an end of our allegiance.

Q. Did you not say, there was a time you thought little of killing the King?

A. At the time the oath was put.

Q. How often have you tendered the oath yourself?

A. What oath?

Q. Have you not been in the habit of administering oaths?

A. At the times the *Philanthropic* met in *High-street*, there was some little boys carrying about the books. I swore

swore them not to divulge the secrets of the society, nor withdraw themselves from it.

Q. Were they members of it?

A. They were.

Q. Did you ever administer an oath, not to give evidence against any of the society?

A. *Burke* swore the *ten*, but I do not remember what the oath was.

Q. (*By the Court.* Did you swear those little boys?

A. I did.)

Q. Do you recollect swearing one of these boys with a pistol to his breast?

The witness did not answer.

Q. Have you sworn against any of these little boys?

A. I do not recollect that I did.

Q. Will you swear you did not?

A. I cannot swear that.

Q. You can swear the facts without an intention of remembering what you swear to?

Witness did not answer this question.

Q. But you do not remember, whether you have sworn against these little boys, or not?

A. I cannot.

Q. I ask you this, have you not sworn a great deal, that you do not remember?

A. I swore a great deal at the *Philanthropic* society.

Q. (*By the Court.* Do you mean what you swore here, or your information before the Magistrate?

A. No: But what I swore at the *Philanthropic* society.)

Q. Have you not sworn a great deal before the Magistrate in your information, that you do not remember this day?

A. I do not think I ever swore *Brady*, or *Kennedy*, or *Flood*, or *Coffey* to that.

Q. You gave information before a Magistrate?

A. I did.

Q. You swore to them:—Now do you remember, as you sit upon the table, every thing you have sworn in those informations against *Leary*?

A. No.

Q. Or what you have sworn against any of them?

A. Yes,

A. Yes, I do recollect.

Q. Do you remember the name of every person, you swore against.

A. I do.

Q. Now mention the names of the little boys to whom you administered oaths?

A. I cannot.

Q. Recollect the names of the little boys, you swore?

A. There is one lives in *Castle-street*—there was a good many, and I did not know their names at that time.

Q. Did you ever swear a *Philanthropic*, a *Telegraphic*, or a *Defender*, never to give evidence against any member?

A. At the *Telegraphic* society, *Burke* and a great many more were present—one of the men wanted to swear the members present, and went down and brought up a book: two or three were sworn, and he desired me to take up the book and swear, but as I had it in my hand, they desired me to stop, for they would not admit the oath to go round.

Q. Do you recollect the trial of *Jackson* in this country?

A. I do.

Q. You recollect a particular witness of the name of *Cockayne* upon that trial?

A. I do.

Q. I ask you on your oath, do you know of any design against the life of *Cockayne*?

A. There was *Le Blanc*, the *Frenchman*, the night before *Jackson's* prosecution, and a man who lived in *Capel-street*, belonging to the *Philanthropic*, knocked up against my window. My wife got up, and asked, who was there? They desired me to put on my clothes, and if I had any weapons, to bring them out. I did so. They told me we should stop *Cockayne* from appearing against *Jackson*. We went to a house at *Stephen's-green*, in the way leading to *Leeson-street*, where he said Mrs. *Jackson* lived—he desired us to wait till he came back. He went in, and when he returned, said, *Cockayne* had been there, but was gone. He then went for *Waller*, and brought him: We were walking up and down the street better than two hours, waiting for *Cockayne*.

Q. (By the Court. What was the name of the other man?

A. I do not recollect; he lived in *Capel-street*.) We got a glass of punch, before we went to the *Green*.

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Q. Who

Q. Who went into the house ?

A. *Le Blanc*.

We went afterwards to *Henry-street*, to a house which *Le Blanc* pointed out, where he said *Cockayne* lodged up stairs, and said he would get in over a little glass-case : he desired us to walk up and down the street, till he went for *Waller*. He and *Waller* returned. After we walked back and forward for some time, and seeing no light up stairs, he thought *Cockayne* had not come there. We were for two hours and a half. *Le Blanc* said, if he could see him, he would take him out of the way, to prevent his appearing. But if he was killed, and the court should know it, the informations he had given could be read ; but if we kept him, and he did not appear, *Jackson* would be acquitted.

Q. You were present, and one of that party that went first for the purpose of assassinating the man, and afterwards determined it would be better to keep him confined ?

A. I do not say we went for that purpose.

Q. You were one of the party ?

A. There were four of us.

Q. Mention their names ?

A. The man who lives in *Capel-street*, the left hand side ; he is a coachmaker ; *Le Blanc* and *Waller*, who works at *Jackson's* foundery in *Church-street*, and myself.

Mr. *Prime Serjeant*. Whereabouts in *Capel-street* does this man live ?

A. He lodged in *Capel-street* with his mother, on the left side, in a gate way.

Q. What is his mother's name ?

A. I do not know.

Q. What part of *Capel-street* is it in ? is it between *Essex-bridge* and *Mary's-abbey*, or near where the Lottery is drawn ?

A. I cannot say.

Q. You know where the Lottery is drawn ?

A. Yes : it is this side of the Lottery.

Q. Where did *Le Blanc* live ?

A. In *Golden-lane*.

Q. He was an embroiderer ?

A. Yes.

Q. (By

Q. (By the Court.) You mentioned that at the meeting in *Stoneybatter*, *Hart* said aloud, the object was to get arms to assist the *French*?

A. Yes.

Q. Was *Leary* present at that time, or not?

A. I cannot say.

Q. (By one of the Jury.) You say, that *Hart* desired such as had not arms, to go home and get arms—Therefore I conceive, you were the only person armed, and the others went home for the purpose of getting arms.

A. I was the only person armed, that I know of. *Hart* desired them to go for arms, and not finding them return, he desired those who remained, to put their hands upon the table.

Q. How many remained?

A. About fourteen.

Q. How many went away?

A. At the time the young man was sworn, there were twenty in the room.

Q. Then there were but six who went for arms?

A. When *Hart* desired those who remained to lay their hands on the table, I beckoned to *Walsh* and he came out, but said, he had a naggin of punch to pay for. I went home and was afterwards informed, that they were out.

Q. Was the prisoner at *Stoneybatter* that night?

A. He was there.

Q. Was he present at the time, the oath was sworn upon the table?

A. Not that I know of.

Q. Was the prisoner ever sworn as a *Defender*?

A. Not as I know of, but whenever we met in the streets, he used to make signs, and shake hands as *Defenders* do.

Q. But you never heard him sworn?

A. Never.

Mr. *McNally*. My Lords, I omitted to examine the witness as to the papers: upon the former trial, his evidence went to shew they were found upon *Kennedy*, but nothing more.

COURT.

COURT. Examine him.

Q. How often have you seen these papers before ?

A. Very often.

Q. Can you take upon you to swear, who wrote these papers ?

A. To the best of my belief, it was *Hanlon*.

Q. Did you ever see *Hanlon* write ?

A. No.

Q. Can you swear whose writing they are from having seen any person write ?

A. No.

Q. Is there any private mark upon these papers ?

A. I would know them any where.

Q. Is that an answer ?

Q. I described them to Alderman *James*, on account of their being much tumbled.

Q. I ask you, have you any private mark upon these papers ?

A. No.

Q. Have you ever seen them in the possession of any other ?

Q. In the hands of *Coffey*.

A. Did any one else see them ?

Q. *George Lewis*.

A. Will you swear this is the identical paper, which was in the hands of *Weldon* ?—which you saw in the hands of *Kennedy*, and in the hands of *Coffey* ?

A. The very paper.

Q. From what mark, can you say that ; and that it is not a paper wrote by the same person ?

A. I took particular notice, at the time *Weldon* swore me, of the hand the papers were wrote in, and that they were damaged.

Q. If the same man, who wrote these papers, wrote duplicates, and that they were damaged, would you swear to them ?

A. I believe these are the papers.

Mr. Attorney General. Upon what occasion did you see the papers in the hands of *Coffey* ?

A. Sunday 23d of August—when we were at *Dry's* in *Cork street*—*Coffey* swore *George Lewis* upon them, and *Kennedy* put them in his breeches job.

ALDERMAN

ALDERMAN JAMES, *sworn.*

Examined by Mr. SAURIN.

Q. Do you recollect having received information of any papers being in the custody of any person?

A. I do.

Q. From what person?

A. From the witness who is just gone off the table.

Q. Of what papers?

A. He told me of the *Defender's* oath, that I would find it. ———

Mr. *McNally*. My Lords, I object to this. If the Magistrate took down the information, the writing should be produced ———

Witness. I had written a memorandum of it, but do not know what I did with it. I gave a copy of it to Mr. *Carleton*, and gave him directions to search *Kennedy's* fob for a particular paper.

Mr. *Saurin*. What day were those informations given?

A. I believe on the 27th or 28th of *August* last.

Q. Did you ever issue a warrant to apprehend *Lawler* himself?

A. No.

Q. Do you know any thing of his being apprehended?

A. He came on *Saturday*, 29th of *August*, for I was particular in taking a memorandum of that, and gave me information of several *Defenders*.

Q. Do you know the circumstances of *Lawler's* being apprehended?

A. I do.

Q. What were they?

A. He came to me on *Saturday* evening and asked my advice or opinion ———

Court. This private conversation is not evidence.

Mr. *Solicitor General*. My Lords, where it is necessary to shew, that the witness came in voluntarily.

Court. That appears already from the testimony of the witness himself.

Q. Where was it that *Lawler* was apprehended?

A. I believe at *Crumlin*, I was so fatigued myself after the
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the severe duty that week, that I sent to Messrs. *Godfrey* and *Atkinson* to arrest the people assembled at *Crumlin*.

OLIVER CARLETON, Esq. *sworn*.

Examined by Mr. Kells.

Q. Did you receive any directions from Alderman *James*, with respect to *Kennedy*?

Mr. *McNally*. My Lords, I submit that no evidence can be given with regard to *Kennedy*, who is not upon his trial.

Mr. *Justice* CHAMBERLAIN. Recollect the tendency of this examination. The witness gave an account of these papers, that he saw *Coffey* swear *Lewis* to these papers, and that *Kennedy* took them up, and put them into his fob. Surely if it appears they were found there, it will be some evidence of the identity of these papers, to go to the Jury.

Mr. *McNally*. My Lords, there is no evidence that the prisoner was sworn upon these papers.

Mr. *Attorney General*. The only object of Mr. *Carleton*'s testimony is to let in these papers to be read. What effect they may have is another question.

Q. Where did you find these papers?

A. In the fob of *Kennedy*'s breeches.

Q. How came you to search there?

A. By the particular directions of Alderman *James*.

Q. These are the papers?

A. They are.

JOHN ATKINSON, Esq. *sworn*.

Examined by Mr. Ruxton.

Q. Did you hold any office in this city?

A. Yes, Sir, Constable of the South Division.

Q. Did you get any directions in *August* last to apprehend any person?

A. I did.

Q. Did you execute those orders?

A. I did.

Q. Whom did you apprehend and where?

A. I went to *Crumlin* and apprehended five people, *Lawler* was one of them.

Q. You

Q. You took him by the directions of Alderman James?

A. Yes.

Q. (By the Court. Was it so far as Crumlin?)

A. It was near it

Cross-examined by Mr. M'NALLY.

Q. Crumlin is in the county of Dublin?

A. I believe so.

WILLIAM FINNEGAN, sworn.

Examined by Mr. SOLICITOR GENERAL.

Q. Where did you live in August last?

A. In a place called the Black-quarry-road, in the neighbourhood of Stoneybatter: near hand to it.

Q. There is a road intervening between your house and Black-horse-lane?

A. There is a lane, but it does not go through. I am nearer Glassnevin than Black-horse-lane?

Q. Was your house ever robbed?

A. It was.

Q. About what time?

A. I do not know: it might be in August, the beginning of the month.

Q. There were some arms taken out?

A. There was.

Q. Have you a bell in your house?

A. I have.

Q. Mention what happened at the time of the robbery?

A. It was on Sunday night, that I am certain of, though the witness said it was Monday or Tuesday. The first thing that alarmed me was throwing stones at a window; I got out of bed: they threw so hard against the window, I was afraid of opening it. They then broke the pannel of the door, and I desired the woman to ring the bell.

Q. Where is the bell situated?

A. In the yard, there is a rope through the house, and the woman rung it from within.

Q. Were there arms taken?

A. A brass barrelled blunderbuss and a fusée and a couple of pistols.

Q. What is become of your nephew that was in the house that night?

A. I do

A. I do not know: he made examinations of that: I saw him swear the examinations.

Q. He swore to the arms?

A. I do not know, I was not present, when the examinations were drawn.

Q. The arms were produced to him?

A. No, they were produced to me.

Q. Did you hear, during the time of the robbery, any person complaining of the ringing of the bell?

A. When I went out, the door being broken——

Mr. McNally. I object to this as illegal evidence.

Q. Did you hear any conversation going on, while the robbery was committing?

A. Not while the robbery was going on, I did not.

Q. Did you hear the persons say any thing?

A. One of the persons asked me, why I rung the bell. I said the reason was to prevent myself from being robbed.

Cross-examined by Mr. McNALLY.

Q. You say it was a woman was ringing the bell.

A. It was.

Q. Had she lived with you any time?

A. She had.

Q. Who else was in the house?

A. A little boy and my nephew.

Q. Where was the boy?

A. In bed.

Q. Where was the nephew?

A. He was up, and threw the blunderbuss out of the window and it was broke, which displeased them.

Q. The blunderbuss that was broke was yours?

A. It was.

Q. Then the door was not broke open by a blunderbuss?

A. No, but by the axle tree of a cart.

Q. Who was in the room with the woman who rung the bell?

A. She was in the kitchen.

Q. Was your nephew ill treated that night by any person?

A. No.

Q. His heels were not knocked from under him?

A. No.

Q. He

Q. He never rung the bell that night?

A. No, he did not.

Q. What night was this robbery?

A. Eleven o'clock on *Sunday* night.

[The papers were then offered to be read.]

Mr. *M'Nally*. My Lords, these papers are not evidence to go to the Jury. They stand in a very different situation from what they did, when they were read upon the former trial, or I would not make the objection, because I consider myself bound to submit to every rule laid down by this Court. It does not appear that those papers were ever in the possession of the prisoner—that they were ever shewn to him, or ever read in his hearing. It does not appear, that these papers and the prisoner were, in any one instance, ever together. I conceive, that the rule of evidence with respect to papers is this. If the paper be found in the possession of a man, it becomes evidence to go to the Jury to consider for what purpose he had it in his possession. Or, if the paper be proved to be in the hand-writing of the prisoner, then after proof of that, it may be read in evidence against him. But if you recur to the evidence of *Lawler*, he has not presumed to say, that these papers were in the hand-writing of *Leary*. He saw the prisoner at *Stoneybatter*; there was a paper laid upon a book, and something said, which he does not know, but it does not appear, that either of these was the paper laid upon the book. Therefore, without going into the argument at large, I submit these papers ought not to be read. If it did appear, that these papers were at the meeting at *Stoneybatter*, the objection might be weakened. But there is no evidence of that, nor that they were read, so that the prisoner might know their contents. And no papers are ever read against a prisoner, unless there be some evidence, that he knew their contents, and assented to them.

Mr. *Prime Serjeant*. My lords, I conceive that these papers ought to be read upon two grounds. The principle upon which you have already determined one or two points of evidence goes directly to determine the admissibility of these papers, independant of the ground upon which they were originally offered. The principle upon which the general acts of a body are admissible against an individual of that body applies to these papers. The witness says he was sworn upon these papers. The signs were

were then communicated to him; and upon a meeting between him and the prisoner, there was a communication between them of one or more signs, particularly the sign of pressing the thumb upon the back of the hand. The ground upon which these papers were offered, is, as explanatory of what was said by *Hart*, acquiesced in by the prisoner, and acted upon that very night. The next ground upon which I conceive it to be admissible, even if the general ground were out of the case, is this. These papers were brought forward in support of the consistency of the witness, *Lawler*; to shew, that he had at different times, made the same declarations—that he pointed out these papers, as being in the possession of *Kennedy*, and the same principle which induced the court to let us into evidence of the place, where the papers were found, calls upon the court to look at the papers themselves.

Mr. *Attorney General*. My Lords, these papers were produced at a meeting of *Defenders*. *Dry*, *Coffey*, and *Kennedy*, met at *Cork-street*. *Kennedy* produced the papers, gave them to *Coffey*, who swore *Lewis*, and *Kennedy* put them up. This goes to shew, the system and design among them, and——

Mr. *Justice CHAMBERLAIN*. I am of opinion this is evidence to go to the jury, in the point of view mentioned, namely, as evidence of the intentions, schemes, and designs of the persons associated under the name of *Defenders*; and if we stop this evidence, it would interrupt the train of such discovery. It cannot be denied, that there is evidence to go to the Jury of the proceedings of *Defenders*. The first meeting was in *Barrack-street* where an oath was administered to the witness, and certain private signals communicated to him to be introduced by:—the prisoner was acquainted with them and communicated them to the witness; therefore the papers must be material to develop the real design of these persons. It is of the essence of this charge, that the Jury should be convinced of what the schemes of the *Defenders* were, and there is nothing more proper to shew that, than these papers, because the Jury may infer, that every man associated must have been privy to their designs, provided they think the papers are the same, and of that they will be reminded hereafter.

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The papers were then read. *Vid.* Indictment.

Mr. *McNally* now addressed the Court and Jury; as counsel on the part of the prisoner; and commenced the defence of his client by regretting the great disadvantages under which the unfortunate man necessarily laboured, from being deprived of that great aid which all men derive, who have the good fortune of being supported, by the extraordinary and brilliant abilities of his friend Mr. *Curran*, assigned with him, as counsel for the prisoner; but who, in consequence of a particular event, was precluded from appearing in his professional character, on the present most serious and interesting occasion. But though standing alone, he said he would rouse his mind from depression, though weak and fatigued, yet he felt consolation from the cheering recollection, that the presiding judges, before whom he pleaded, for the life of the prisoner, were not less eminent, for their constitutional principles and legal knowledge, than distinguished and revered for their patience and humanity. From the Jury also, he received comfort. Some of them were personally and intimately known to him—with the characters of all he was acquainted—and he was convinced that in addressing them, he submitted his thoughts to fellow citizens, from whose wisdom and good nature he had to expect every favour and indulgence; and from whose verdict, the prisoner had to expect such a decision, as would be consistent with minds, equal to the arduous task of discriminating between right and wrong, between truth and imposition, between affected candor and hypocrisy; and of adducing from the evidence before them, such a conclusion as would fully satisfy their own consciences and be entitled to the approbation of the public, for whom they were trustees.

He here adverted to the statement which had been made, on the part of the crown, by the *Attorney General*, on opening the case; which he observed set forth a number of facts that did not afterwards appear in evidence, and which of course, the Jury were bound to expunge from their recollection, when they came to contemplate upon the verdict which they should pronounce, and which, by the rules of justice, must result solely from testimony given in proof by the witnesses, and credited by the Jury. He hoped it would not be understood, that in making this observation, it was his intent to insinuate in the slightest manner,

manner,

manner, any imputation that could affect the known candor of the first law officer of the crown—No, on the contrary, he considered himself called upon, having this opportunity, publicly to declare, that humanity to the prisoner, as well as zeal to the crown, had on every prosecution as well as the present, marked that gentleman's professional conduct, and bore honourable testimony to the benignity of his mind.

There were, he said, some principal objects to which he would presume to solicit the attention of the Jury. These objects were:—First, the oath they had taken; secondly, the pre-eminence of the great and sacred character who prosecuted. Third, the approver examined as a witness, and fourth, the nature of the evidence, which that approver had divulged in support of the indictment.

Here Mr. *McNally* said that, in respect to the last object he had to submit to the Jury, the nature of the evidence, he felt the highest satisfaction and great relief from having perceived that several of the Jurors had, during the course of the trial, been sedulously employed in taking notes of what had past, by which they would be the better able to correct any errors that misconception on his part might lead him into, and he hoped they would rectify his mistakes, when he came to the statement of evidence, as it was certainly not his intention wilfully to misrepresent a single iota, of the evidence, or to make a single observation not founded in fact.

He then proceeded to the first point he had proposed to submit to the Jurors' consideration, and it called for their most serious attention, he meant the nature of that oath which they had taken when called upon as triors of the prisoner. They would recollect they had sworn that "they would well and truly try and true deliverance make between their Sovereign Lord the King, and the prisoner at the bar, and a true verdict give according to the evidence"—they would recollect that on swearing thus, they had appealed to the Almighty God to punish them if they did not do impartial justice. To find according to the evidence was the obligation of the oath. Now what does finding according to the evidence import?—It imports no less than this, that a Jury should not find a verdict of guilty on any proof that was not convincing, clear and strong, as holy writ; that was not free from imputation and devested of doubt. That evidence on which a man's life depended, on which a man's
life

life might be the forfeit, should be unclouded, unshadowed by uncertainty and clear as the sun at mid-day; for evidence is that which puts the matter in issue on the ground of certainty; where there is a doubt in a criminal case there cannot be a conclusion of guilt against a prisoner, but there must be a verdict of acquittal. Unless every man on the Jury is convinced of the prisoner's guilt they are ruled by their oaths, they are compelled by their consciences, they are called upon by the rigid principles of justice, they are directed by the imperative voice of mercy to acquit.— It was for this reason that by the old law prisoners accused of capital crimes were not allowed to exculpate themselves by the testimony of witnesses— the rule however was weak and dangerous, though the motive assigned to it was merciful and benign. No man, says Lord *Coke*, should be convicted but on clear and indubitable evidence, and that is the reason, continues his Lordship, that prisoners were not allowed witnesses by the common law. Here Mr. *M^cNally*, entered into the danger of drawing conclusions from inferences or implications, and cautioned the Jury to form their verdict solely from facts given in proof.

Mr. *M^cNally* now gave a short statement of the indictment against the prisoner. By this indictment, he observed, the prisoner stands charged with two distinct species of high treason, the most enormous offence that the law recognizes, or that the subject can be guilty of. The first charge is that “the prisoner at the bar with other false traitors did associate themselves for the purpose of aiding and assisting the persons exercising the powers of government in *France*, &c. waging war against the King, and did compass and imagine the death of our Sovereign Lord the King, with an intent our Lord the King to kill and put to death.” The second charge against the prisoner is that “he was adherent to the King's enemies giving them aid and comfort,” and both these offences were declared to be high treason by statute the 25 of *Edward* the Third, and that statute expressly required that the party accused of high treason, be thereof upon sufficient proof attainted of some overt or open act by men of his own condition—that is by a Jury.

As to the first of these charges it did not appear to him, that any overt act of compassing and imagining the King's death had been given in evidence; and therefore he would not now urge any argument upon the law on that species of treason, or recapitulate those which on a former occasion
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he had submitted to the opinion of the Court. On the occasion he alluded to, his objections had been over-ruled by the Court, and certain it was, the judgment of the Court was supported by the highest authorities; authorities to which he must submit, though not convinced; they merited every respect from him, and it was his duty to bow with reverence to their judgment. Here he again urged that the law respecting the first charge in the indictment need not be stated to the jury; for that though the indictment spread its terrors over six skins of parchment, exhibiting no less than sixteen specific overt acts of treason, yet not one of those overt acts applied to the first charge, and he believed the learned judges who presided, would be of opinion, that only two overt acts had relation to the second, for which reason, he would take into contemplation only the second count, and those overt acts which appeared to support it.

As to the law on the second count or charge in the indictment, it struck him, that the species of treason set forth therein, contained two branches. First, "being adherent to the King's enemies in his realm, and giving them aid and comfort therein." Secondly, "being adherent to the King's enemies, and giving them aid and comfort elsewhere," that is, out of the realm. The offence charged upon the prisoner, and on which the overt acts were grounded, was clearly the first branch of the second species of treason, "being adherent to the King's enemies within the realm," but he submitted to the Court, that there was no evidence to shew an adherence to the King's enemies *within* the realm; for there was no proof before the Jury, that the King had enemies within the realm. Perhaps it might be asked, are not rebels the King's enemies?—Are not traitors foes to their Sovereign? The answer is, that in contemplation of law, persons of such description are not the King's enemies. No man owing allegiance to the Crown, whether natural allegiance,—which included all his Majesty's subjects, or local allegiance, which included alien residents, were in contemplation of law, the King's enemies: the enemies meant by the statute of *Edward the third*, were to be understood the subjects of foreign powers, with whom the nation is at open war, and there did not appear a *scintilla* of evidence in the course of the trial to shew that the prisoner at the bar had adhered, or given aid, or had abetted
such

such foreigners, or held the least connection, or the slightest intercourse with them within or without the realm. The charge he observed, was novel, though the law that provided against it was antient. He doubted if there was a precedent to be found in the books more recent than the reign of Queen *Elizabeth*. He had seen one in the state trials of that reign, but it was so loose and faulty, as not to be an authority. Adhering to the King's enemies without the realm was a more frequent offence, but no such offence was set forth in the indictment, nor no overt act of such an offence. The overt acts of this species of treason as described by the books, were, writing and sending letters of intelligence to the enemy, supplying them with money, or supplying them with provisions, or warlike stores, or other articles of a similar nature, not one of which overt acts appeared in the indictment. If, however, the Court were of opinion, that the second count was well laid, he submitted, that the only facts, in proof, that applied to it, were those which tended to establish the fifth and eight overt acts, and that he would observe upon those facts and the credit they deserved, when he came to speak on the evidence given by *Lawler* the approver.

Mr. *McNally* now called the attention of the Jury to the second object—the prosecutor. Who was the prosecutor? The prosecutor was the King. A character sacred, pre-eminent, and paramount to all others known to the constitution. A character to whom, politically speaking, the law attributed immortality and perfection—a character so elevated, that a great constitutional writer, after mentioning his prerogatives and his revenues, ascribes to him so great and so transcendent a nature, that he adds, the people are led to pay him the most awful respect, and to look up to him as superior to other beings. But that respect and reverence due to the Sovereign, must not interfere with justice; must not influence a Jury, bound by their oaths to determine by the intrinsic weight of evidence, not by influence arising from extrinsic causes. The strongest proof a Jury can give of loyalty and affection to their Sovereign, is to administer impartial justice to his subjects. The Jury would keep in their minds that his Majesty did not come forward, on the present occasion, to prosecute for an offence against a private individual; but for an offence the most heinous that the law recognized;
for

for no less an offence than an intent to destroy his own sacred life, by bringing war and desolation on the land. The horror that arose from the contemplation of such a crime, nay from the intimation of it, must strike a deep and sensible impression into the mind of every man—but he conjured the jury again to recollect the nature of the oath they had taken; to judge solely from the evidence, and that to determine fairly they must divest their hearts of all passion, and their minds of all bias; they should neither act from feelings nor from influence; and that without a dereliction of both, however worthy the motives might be which guided them, they could not decide conscientiously, the issue they were sworn to try, and truly to determine, between the King and the prisoner.

Look now said he on the witness—turn your eyes on *William Lawler* the approver, by his own confession, he stands before you a principal actor in the perpetration of a catalogue of crimes the most atrocious and shocking. Contemplate for a moment on the transgressions of this miscreant, in which he would implicate the prisoner and consider his conduct seriously before you give credit to his evidence. In what character does he come forward? In that of an approver, that is a culprit, who being charged with a crime or crimes, for the purpose of saving his own life accuses another. It cannot be very material to a man of such a description whether he convicts the innocent or the guilty. A wretch who by his own confession attempted murder against the law, would have little compunction in committing murder under the sanction of the law, when safety to his own life was the reward. He said under the sanction of the law, because an accomplice is clearly a competent witness, whether he be indicted or not, and for this plain reason, that if the evidence of such a man was entirely rejected, many crimes of the most enormous nature might be perpetrated with impunity. But there existed a general rule of law in such cases, to which the courts had always paid a tenacious regard, and which must strongly impress the Jury, when stated to them by the learned judges on the bench, it was this—that unless some fair and unpolled evidence was produced, corroborating and communicating a verisimilitude to the testimony of the accomplice, that testimony ought to have no weight with the Jury. This was a rule of benignity and he would
venture

venture to assert that the law reporters could produce but one exception to it; a solitary case reported by Mr. *Leech*, of a trial before Judge BULLER in *England*, and that exception did not forcibly apply here, for in that case, the witness on whose single testimony the jury founded a verdict of guilty, was not impeached for the commission of any offence, saving that individual one in which he had been a *particeps criminis*. He did not appear pided with an accumulation of black offences; attempts at murder and conspiracies for assassination. The jury would not forget *Lawler's* confession of faith. No, they would remember that though he swore on the Holy Evangelists he at present believed in the existence of a God, he yet had acknowledged the impious fact that his faith in the Trinity had been shaken. That though he had been heretofore instructed in the Protestant religion, yet he acknowledged he had been seduced from the principles of christianity to the sceptical opinions of deism. But impiety of a much grosser nature than deism would be proved upon him, by witnesses of credit. It would be proved that Mr. *Lawler* had not only openly and repeatedly declared his disbelief in the Trinity, but in the existence of any of its members; that he had denied the divinity of each of the three divine persons; that his creed admitted of no deity, of no translocation of the soul, but recognized only one melancholy opinion, that "death is eternal sleep;" that man, like the inanimate tree, lies where he falls, sinking to all eternity into his native earth, incapable of renovation or ascension into future life. Such was the diabolical religion, at least such had been the infamous professions of Mr. *Lawler*; the Atheist and approver.—Such was the infernal instigation under which this unbelieving witness had acted; whose call, like that of St. *Paul's*, was not from infidelity to the true faith, but who like *Julian* the apostate renounced the precepts of the true faith to become an infidel and a persecutor.—To him may be well applied an epigram made on a similar character; on a wretch who having long professed and disseminated the precepts of Atheism, received the Sacrament, in order to qualify for a place——

"Who now can think recanting odd,

"To shun a present evil

"That wretch who oft' denied his God,

"Has now denied the Devil."

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Such is the delineation of Mr. *Lawler's* religious theory, let us now take a slight view of his moral practice. Out of his own mouth the Jury should judge of his morality—mark his confessions in the course of his cross examination. He had been discharged, or he had ran away, for he did not positively say which, from his first master, Mr. *Robinson*, on a suspicion of theft. He had confessed having taken an oath of fidelity when he enlisted, and having premeditatedly broken that oath when he deserted; of having solemnly sworn not to prosecute, the unhappy deluded youths with whom he associated, and whom he had seduced into clubs, and of having perjured himself by the breach of that obligation. It was true he had not acknowledged an intent to commit murder, for when asked, who fired the pistol into the watch-house, in the attempt to rescue, he refused to answer that question, well knowing the consequence. But, was not that refusal a tacit confession of the crime? Was it his innocence of the charge, or his prudence to avoid punishment for the crime, prevented an answer? The Jury were the judges of that, and the Jury would apply this refusal to his credit. On the question of assassination, he was more candid, for with audacity and composure, he had coolly and deliberately stated having been one of four, who had lain in wait to put *Cockayne* to death. So that this witness, on the credit of whose testimony, the life of the prisoner at the bar depended, stood himself before the Jury, self arraigned, and pleading guilty to charges of one intended murder, two perpetrated perjuries, and a premeditated assassination! Could his credit support such a weight of accumulated guilt? The act of discharging a pistol into the watch-house, might, no doubt, by the ingenuity of argument, be palliated and softened down to manslaughter, in case a life had been lost—It might be construed into an act of passion without malice prepense; but the intended assassination of *Cockayne* had none of these qualities, the intention there was blackened with the most implacable malignity, and had the fact been accomplished, would have amounted to murder of the most aggravated enormity. Mark his coolness, recollect his deliberation, previous to the commencement of the diabolical deed—He was awake in the night, and, in the night he arose and marched forth armed, for the purpose of assassination! Would the Jury credit such a witness as this? A miscreant leprosed with crimes,

crimes, surrounded with fears for his own personal safety, —A miscreant with the gallows in his front, the pillory in his rear, and his pardon suspended over his head, on condition that he should support, by his testimony in Court, the information he had sworn to before a magistrate.

It may be answered, and indeed it was thrown out on a former occasion, that the Jury would give Mr. *Lawler* credit, because he was consistent. Is not every liar that fabricates a scheme of villainy for reward, or for impunity, consistent? Is it to be presumed, that a man of Mr. *Lawler's* docility and cunning, would not corroborate, on the table, in the face of the Court, what he had previously promulgated and sworn before *Alderman James*? Every man knows the melancholy story of the unfortunate youths, who suffered an ignominious death in *London*, from the perjured evidence of *Salmon* and *Geoghegan*. These wretches swore away the lives of their fellow creatures, to acquire rewards given by statute, on conviction for highway robberies, and their evidence was always consistent—so was the evidence of *Titus Oates*, and his associates, and so would the evidence of conspirators, such as Mr. *Lawler*, ever be found—

Mr. *McNally* having concluded his description of the approver, proceeded to observe upon such parts of the evidence as, he said, appeared material in the case, if any thing could appear material coming from the mouth of such a man; and as he thought the whole should be narrowed to what had been sworn to have passed at the meeting at *Stoneybatter*, he would confine himself to the facts respecting that meeting.

It had been sworn by Mr. *Lawler*, that the prisoner had been there, at a meeting of a Society calling themselves *Defenders*, but it did not appear that he ever attended that Society a second time, a circumstance which must impress the Jury with a belief that, if he had been even there, he was disgusted with their proceedings, and dropped their association. He was not however answerable, as a traitor, even if he had been present at one meeting and saw and heard what passed, for he only concealed what he had seen or heard, without shewing an approbation by a second visit, and to conceal treason except in case of an actual conspiracy to kill the King, was not treason, but only a misprision; a crime of a different species from that on which the prisoner was indicted.

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The most serious part of the overt acts, he conceived, to consist in taking those oaths or obligations, which had been read from the papers found by Mr. *Carleton*, the peace officer, on the person of *Kennedy*. But was there any evidence to support that overt act—was there any proof that the prisoner had taken oaths, or either of them? not an iota of proof—not so much as a reasonable presumption; for there was not proof that he had ever read those papers, or had even heard them read, or was present when any oath of any kind was administered. Neither was it in, proof, before the Jury, that the papers which lay on the table in the house at *Stoneybatter* contained an oath or obligation, nor was it pretended, that such paper was one of those which had been admitted to be read in evidence by the Court. A person named *Hart*, as sworn by the approver, had put his hand upon a paper that lay on the table; but the approver declared he did not hear any thing that had passed on that occasion; so that for aught he knew nothing had passed, and if any thing of consequence did pass, or if any thing treasonable was said, it was equally clear that the prisoner had not seen or heard any thing; but it appeared he was in liquor—it appeared he was so situated that he could neither hear what was said nor see what was done.

He then urged that no intimacy had appeared by evidence to have subsisted between the approver and prisoner on any other occasion. He had not been on the party at the watch-house, when the approver was wounded, in attempting to commit murder—He had not been called upon to join the conspirators who premeditated the assassination of *Cockayne*; in short, it did not appear he had been at any meeting but one at *Stoneybatter*; and there was no satisfactory evidence before the Jury, even from the approver himself, that any treason was agitated at that meeting in the presence or hearing, or by the assent of the prisoner.

Mr. *McNally* now touched on the difference of the statute law, in cases of high treason, in *England* and *Ireland*. In *England*, he observed, the prisoner would not have been put upon his defence, but must have been acquitted on the evidence given for the Crown; for there one witness, though perfectly credible, as well as competent, could not affect a prisoner charged with high treason—there the legislature, jealous of Crown prosecutions, and tenacious of the subject's safety, had prudently and cautiously provided, that to sanction and support a conviction of high treason, there must

must be two credible witnesses to one overt act, or one credible witness to one overt act and a second witness to another overt act of the same species of treason. The *Irish* statute had not adopted a similar provision, and as the parliamentary law of *England*, had no force, and he trusted never would have force, in *Ireland*. He could not urge the *English* statute as an authority though he would venture to state it as containing a principle wise and salutary, and which should have weight with the Jury as being derived from the common law, which was the same in both countries. The principle was this that one man's oath was as good, in point of law, as another's, and therefore in perjury, there must be two witnesses at least, to convict; for the oath of the single person charged was as strong and conclusive evidence of his innocence as the oath of the person charging was of his guilt. This rule applied, with great effect, to cases of high treason, because as every man living within the realm, under the protection of the laws, owed in return for that protection, allegiance to the Crown, which he could not transfer or divest himself of, that oath of allegiance ballanced in the scale of justice the oath of any single witness. Every man is presumed to have taken the oath of allegiance—the Jury must presume that *Leary*, the prisoner had taken that oath, and that oath, should not only counterpoise, but preponderate against the oath of *Lawler* whose credit was impeached, shaken, nay, sapped and overturned by his own confession of having broke the oath of attestation, which he had solemnly sworn, when he insisted and promised true faith allegiance and loyalty to his Majesty.

When the jury took these observations into their consideration he trusted they would not convict a man upon evidence impeachable and inconclusive; evidence which could only raise a presumption of guilt. If any treason appeared he submitted it was but constructive treason—what was construction—the best lives that *England* ever boasted, the greatest characters that ever served their country and supported its constitution, had been sacrificed to construction. It was a boundless ocean without limits.—Should a Jury venture on it, they would find themselves without compass, without sail, without rudder, without chart to guide them—they would be tost by the undulation of every wave and sported with by every storm; till striking upon some sunken rock, or drawn into some whirlpool, they and their bark

would

would be dashed to pieces, or foundering sink into a treacherous abyss! It was on certainty a Jury should found their verdict; certainty resulting from the conviction of unimpeached evidence. Construction was at best a scheme of chance, a wheel from whence the properties, the liberties and lives of the most upright and honourable might by degrees be drawn at the will of the directors, till every man of worth and estimation in the country dropped off as by lottery.

Mr. *McNally* concluded by again adverting to the heinousness of the crime charged upon the prisoner, and described to the Jury the dreadful sentence and horrid execution which would inevitably succeed a verdict of conviction. It was, he said, the cruel invention of savage and barbarous times; the most severe that stained with blood the black page of the criminal code.—It was the vindictive sentence of irritated and insatiate vengeance, not the punishment of pure and dispassioned justice. It was not confined to death, but extended to torture, mutilating and disfiguring the dignified image of God, after whose form we were taught to believe man was made.—But it went further than even the destruction of the offending object, it visited the sins of the father upon the innocent children, by tainting and corrupting the current of their blood; by marking them like the devoted offspring of the first murderer, turning them abroad wanderers, outcasts and vagrants over the face of the earth.

SAMUEL GALLAND, *Sworn.*

Examined by Mr. McNALLY.

Q. Do you know *William Lawler*, alias *Wright*?

A. I know him by the name of *Lawler*.

Q. From the general character which he bears in life, do you consider him to be a man, who ought to have credit upon his oath, giving evidence in a Court of Justice?

A. I do not.

Cross-examined by Mr. PRIME SERJEANT.

Q. Where do you live?

A. In *Crane-lane*.

Q. Of what business are you?

A. I am a grocer, but served my time to a hair-dresser.

Q. How

Q. How long have you lived there?
A. Since I was two years old, I am near 21 years there.

Q. How long have you been a grocer?

A. Two years.

Q. Were you ever a member of a Society?

A. I was of a reading Society.

Q. What was the name of it?

A. It had no name, it was so young, before I left it.

Q. What did you read?

A. The papers of the day:—*Chamber's Dictionary*.

Q. It was not politics you read?

A. Not at all. In the course of conversation it might; but it was not the principal part.

Q. Was it not the principal motive for introducing those clubs?

A. Not when I was a member of it.

Q. When was this club established?

A. Some time after *Lawler* came from *England*, he asked me, was there any Society in *Dublin*? I said, No:—He said, there might be some reading Society, and he asked me to become a member, and my brother, and others.

Q. Were you ever a member of any other Society?

A. Never.

Q. Was not your brother a member of the *Philanthropic*?

A. I believe he was.

Q. Was not he a member of the *Telegraphic*?

A. No: I believe not.

Q. You say you are a grocer?

A. Yes.

Q. You deal in spirits?

A. No: tea, and sugar only.

Q. Was your brother a member of that Society which expired so soon?

A. He was.

Q. Did you ever hear of such a Society, as *Defenders*?

A. I have heard of them as a body, but not as a Society.

Q. Do you not believe such a Society exists?

A. I believe they exist, when men have fallen sacrifices to it.

Q. What do you believe are their designs—Were they not criminal?

A. I can-

A. I cannot say—I should think they were criminal.

Q. Have the goodness to tell us, why you did not continue in the Society, as well as your brother?

A. I had not time, and I deserted it, before it was dissolved. They were scrambling about a Chairman and Secretary, and party matters, and there was no knowledge to be acquired, but noise and confusion.

Q. Was *Burke* a member of that Society?

A. He was.

Q. Can you recollect the names of any others?

A. Not many. There was myself, my brother, *Lawler*, an acquaintance of *Lawler's*, one *Strut*, in short there was not many—12 or 14.

Q. Did you know *John Le Blanc*?

A. I did.

Q. Was he a member?

A. No.

Q. How long have you been acquainted with him?

A. Some time after *Lawler* came from *England*. It was through *Lawler*, I became acquainted with him.

Q. Did you know *Leary*?

A. No.

Q. Do you know *Dry*?

A. No.

Q. Did you know *Weldon*?

A. No; I never saw him until his trial.

Q. Do you know *Brady* or *Kennedy*?

A. No.

Q. Did you know *Coffey*?

A. I did know one *Coffey*.

Q. Did you know *Flood*?

A. No.

Q. *Clayton*?

A. No.

Q. *Lewis*?

A. No.

Q. *Hanlon*?

A. No.

Q. *Hart*?

A. No.

Q. You knew only *Coffey*?

A. That was all, and my acquaintance with him was very slight.

Q. You were summoned upon the last trial?

A. I was.

A. I was.

Q. Tell how you came to communicate what you knew of *Lawler*?

A. I told it to Mr. *Bates*.

Q. Who is he?

A. A hatter in *Parliament-street*, who told it to the attorney, I believe, who summoned me.

Q. Was *Bates* a member of any of the clubs?

A. No.

Q. How came you to know that *Lawler* was to give evidence?

A. I did not know, but I mentioned that I knew the man, and what his character was.

Q. You thought *Lawler* was under a heavy charge, and it was cruel in you to oppress him?

A. I did not, but said, I was sorry for him.—I told *Bates* again, when he heard, that *Lawler* was turned approver.

Q. You wished *Lawler* well?

A. Yes.

Q. And then when *Bates* told you, that *Lawler* was turned informer, this man whom you wished well, was such a man as was not to be believed?

A. *Bates* sent to me, and I went to him, to *Castle-street*, where he lives, he asked me, how long I knew *Lawler*?—I said, for many years. What do you know of him?—I told him all I knew about him, and then I was sent for by *Flood*.

Q. Who is he?

A. An attorney. And it is by that I am obliged to tell what I have.

Q. Have you a good many friends that you are anxious for, whom you would not believe upon their oaths?

A. No.

Q. Have you any other friend, who ought not to be believed upon his oath?

A. I believe I have.

Mr. *McNally*. My *Lords*, I beg leave to suggest a question. Whether the witness ever had any conversation with *Lawler*, respecting his principles of religion?

A. I had.

Q. Tell the jury, what it was?

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A. At

A. At his first coming from *England*, I perceived he was a Deist, and denied that *Jesus Christ* was the Son of God. I was shocked at it.—He said, the only way to become reconciled to it, was to read upon it.—I said, it was a shocking piece of business.—But, said he, I will go further, for I deny the existence of a God.—Where, said I, do you think your soul will go after you die?—he answered, No where.

Q. (By the Court. How long did you continue in the society after this?

A. Not long.

Mr. Prime Serjeant. It was after you were shocked by these irreligious opinions, that you were anxious about him, and went to *Bates*?

A. His belief is nothing to me: in his own breast let it lie

Q. You kept him company after this?

A. He came to my place, but I never went to him.

WILLIAM EBBS, Sworn.

Examined by Mr. McNALLY.

Q. Where do you live?

A. In *Cathedral-lane*.

Q. How long have you known *Lawler*?

A. About 12 months.

Q. Where did he reside in that time?

A. In my house: he took a lodging from me.

Q. Do you know of *Lawler's* having any thing concealed in your house of a remarkable kind?

A. Not till after he was apprehended.

Q. Had you occasion to make a search in his apartment?

A. On my coming home to my breakfast, my wife told me, she saw *Mrs. Lawler* go into the yard, and conceal something in the dirt-hole—I went out immediately, and found two leathern bags, containing 60 musket balls. I never had a bad opinion of him, till I saw them, and I was then shocked.

Q. If *Lawler* swore that he had no ammunition or balls, would he swear true?

A. No, certainly he would not.

Q. Have you ever conversed with *Lawler* upon the subject of the Deity?

A. No,

ask
his

A. No, I had very little communication with him, though he lodged with me.

Q. You have heard of his character ?

A. I have.

Q. From what you know of the general character of *Lawler*, is he a man that ought to be believed by a Jury, giving evidence in a Court of justice in a capital case ?

A. I would not believe him upon his oath.

Q. Were you ever a member of those societies ?

A. Never.

Q. Were you solicited to become a member ?

A. I was.

Q. By whom ?

A. By *Lawler*.

Q. You did not become a member ?

A. No, I did not choose it : I asked him the intention of it ; he would not tell me till I was admitted. He applied to me for a room in my house, for a society to meet in, and I refused. I did not like him after that.—His wife gave me a pistol loaded with powder and ball.

Q. You have been summoned on the part of the Crown and by the Prisoner ?

A. I have five or six times, every day.

Q. Who summoned you to attend *Weldon's* trial ?

A. The Crown, and I was not called upon.

Cross Examined by Mr. ATTORNEY GENERAL.

Q. How long did *Lawler* live in your house ?

A. Twelve months since he took the lodging first.

Q. When did he go to live with you last ?

A. Five or six months, before he was taken up.

Q. During that time he followed his business ?

A. He did.

Q. And maintained his family ?

A. He did.

Q. And conducted himself well ?

A. For a time he did.

Q. He was a member of those societies ?

A. I believe so. He told me so.

Q. He was an active member ?

A. I believe so, by his asking me.

Q. You heard his testimony this day and you were asked, if he had sworn, that he had not balls or powder in his room he would have sworn false. But if he did not so swear

swear, but was asked, had he ball *cartridges* would you disbelieve him?

A. There was both powder and ball in the pistol.

Q. Do you know any thing of rescuing a prisoner from the watch-house?

A. I heard of it, he being cut.

Q. Was not that a long time ago?

A. It was.

Q. And if he swore, that a long time ago he had no cartridges, and a long time after, you found balls in the house or the room, would you think you ought to conclude, he had perjured himself?—I need not press you for an answer.

Q. At the time he was arrested, would you, if asked, say, that he was not a man to be believed?

A. I would for this reason—

Q. Give me your reason?

A. I would—He told my wife several things from which she said he was a dangerous man.—He never kept the Sabbath, for which I determined to get him out of my house. When I came down clean for church, I used to see him working.

Q. Are there not many honest men, who work upon Sunday?

A. There may; but I was asked my reason for not believing the man, and I assign that as one among others.

Q. At that time, you had no other reason?

A. I had.

Q. Except what your wife told you?

A. No.

A. You ground your opinion upon what you heard this day?

A. Not by any means.

Q. You can have no interest in this business.

A. No, indeed, for I have lost.

Q. By this man?

A. No, but by loss of time here.

Q. Then the evidence you give is not founded upon what he has said this day?

A. No, I had this opinion some months ago.

Q. How long did he work upon the *Sabbath* from the time he came to lodge with you?

A. Occasionally.

Q. How long had he remained?

A. Seven,

- A. Seven, or eight months.
- Q. And why did not you turn him out ?
- A. I could not, because he paid his rent regularly.
- Q. Did he work from the time he came ?
- A. Occasionally he did, and I gave him warning ; he took the lodgings for a year.
- Q. But he did not stay a year ?
- A. He did not, but his furniture is there still, and his rooms are locked, what can I do with them ?
- Q. Did you speak well of this man, within this month ?
- A. As to his pay, I might, and keeping good hours.
- Q. Did you not speak well of him within these six weeks ?
- A. Not to my knowledge.
- Q. Upon what occasion, did you say he kept his hours and paid his rent ?
- A. I do not recollect. There were many called to my house, but I was not at home.
- Q. When did you first tell this, that he was not to be believed on his oath ?
- Q. I do not recollect, that I mentioned it to any one, except sitting in court the former day.
- Q. Did you never converse respecting him, after his being arrested ?
- A. I do not know that I did.
- Q. And yet it should seem very natural that you should converse about it.—When did you first hear that he was a witness ?
- A. I did not hear it till after *Weldon's* trial.
- Q. Did you never hear of it till then ?
- A. I had heard of it, but was not certain of it.
- Q. Did you not mention it then ?
- A. No, I did not like to mention it, because I thought it rather disrespectful to myself to have had such a man in my house,

Nicholas Clare, Sworn.

Examined by Mr. M'NALLY.

- Q. Where do you live ?
- A. No. 39, *Townsend-street*.
- Q. What business are you ?
- A. A tailor.
- Q. A master, or journeyman ?
- A. A master.

Q. Do

Q. Do you know *William Lawler* ?

A. I do.

Q. How long ?

A. About fourteen months; the beginning of the winter 1794.

Q. Have you ever had any conversation with him about his principles of religion ?

A. In the winter of 1794, I belonged to the *Telegraphic* society; I was at it three or four times, and there was a meeting at which they talked of the *Age of Reason* by *Paine*, some recommending it, others approving of it. *Lawler* said, I go further than he does, for I deny any part of the *Trinity*, either Father, Son, or Holy Ghost.

Q. How long were you a member of that society ?

A. I quit it immediately upon seeing there was a fellow of this opinion in it.

Q. On your oath did you quit it upon hearing the opinions divulged by *Lawler* ?

A. On my oath I did.

Q. From the knowledge you have of his character and opinions, do you consider him a man to be believed upon his oath, giving evidence in a court of justice ?

A. I do not.

Q. Give your reason ?

A. I should think a man, who denied the three persons of the *Trinity* ought not to be believed upon his oath.

Cross-examined by Mr. SAURIN.

Q. You were of that society ?

A. I was.

Q. When did you quit it ?

A. October or November 1794.

Q. *Lawler* is a much younger man, than you ?

A. I do not know; I am about 32 years of age, and I do not know his.

Q. Did you read that book ?

A. No.

Q. Did you read any other ?

A. I did, and intended to make them a present of a dictionary of Arts and Sciences, I thought it such a society; but when I found he promulged such opinions and

and being a leading man, I quit it, and was glad I did not give my books to them.

Q. Was *Burke* a member?

A. There was a Mr. *Burke*.

Q. Was *Galland* there?

A. I do not know him.

Q. Had you any other acquaintance with *Lowler* than what arose from meeting him there?

A. Never.

FRANCIS HAMMON, *Sworn*.

Examined by Mr. McNALLY.

Q. Do you know the prisoner?

A. I do.

Q. What is his general character?

A. From the time I knew him, a very industrious young man; supporting a mother since I knew him in September 1794.

Cross-examined by Mr. KELLS.

Q. Where do you live?

A. In *Liffey-street*.

Q. Where did the prisoner live?

A. In an apartment under my lodgings.

Q. He lived by shoe-making?

A. By making shoes, and mending and cobbling.

Q. Where did he sleep?

A. Underneath where I slept.

Q. Might he not frequent clubs, without your knowing it?

A. He might.

Q. Are you a member of any?

A. I am not.

Q. He might have spent his nights out?

A. He might. I took notice of him as a young man so very industrious, and I used to remark, that he surprized me, by being so long tied to his mother's apron string. He worked at very early hours in the morning; I asked him why he worked early and late—He said, he could not please every body after all.

Q. He might frequent clubs notwithstanding?

A. He might.

Here the evidence closed on the part of the prisoner.

GEORGE

GEORGE COWAN, *Sworn.*

Examined by Mr. ATTORNEY GENERAL.

Q. Do you know *Lawler* ?

A. I do.

Q. How long ?

A. Four or five years.

Q. Is he a man to be believed upon his oath in a court of justice ?

A. I never heard of an opinion to the contrary till this trial.

Q. Do you recollect his going to you in *August* last ?

A. I do.

Q. Tell the Jury upon what occasion was that ?

A. He came to me on *Monday* morning, 23d or 24th of *August*, and seemed to be a good deal agitated. He came into the parlour; he shut the door of the parlour, and then opened his mind to me.

Q. What intercourse had he with you before that ?

A. After his coming from *England*, he came to work with me; he staid but a short time, when he went to *Gallagher's*, *South Great George's-street*, he worked in his (G's.) house and in his own lodgings. I do not believe he worked for any one else.

Q. What passed when he shut the door ?

A. He told me that he wished to open his mind upon a matter that concerned him very much;—that there was a conspiracy against the protestants of this country, which he wished to make known for my advice, what to do. (Here Mr. Cowan asked, was *Lawler* within hearing, and being answered in the negative, he proceeded) he then told me of the societies he had been in. I do not recollect, that he mentioned the *London Corresponding Society*. He mentioned the others, which he mentioned here. I asked him, was he sworn a *Defender*. He told me, he was a sworn *Defender*, and there told me almost word for word as he has done upon the table the two days he has been examined. Upon my word, he has adhered to what he told me very closely in the two examinations.

Q. Was there any one present ?

A. There was not.

Q. Could any one hear ?

A. There could not.

Q. Why

Q. *Lawler*
A. honest his life.

Q. Why not?

A. Because there was no person present.

Q. Was the door shut?

A. It was; he shut it himself.

Q. What advice did he ask? Did he make any proposal?

A. When he heard the protestants were to be put to death, that lay very heavy upon his mind, he was a protestant himself—in order to prevent the mischief, if possible—

Q. Did he speak of any intention he had with regard to himself?

A. He did not?

Q. Until now you never heard any thing to impeach his character?

A. Never.

Q. Do you know *Ebbs*?

A. I do.

Q. Had you ever any conversation with *Ebbs*?

A. I had.

Q. When?

A. Shortly after *Lawler* was apprehended.

Q. Upon that occasion, did *Ebbs* appear to know that *Lawler* was charged with *high treason*?—or that he was a witness?

A. He appeared to me to know, that he was charged along with the rest.

Q. How did *Ebbs* express himself of the man?

A. He represented him as a very honest, industrious creature; that he would pay his rent the very day it became due;—that he and his wife appeared extremely decent. I went up to the room to look for him, before he was taken up.

Q. *Ebbs* did not impress you with any opinion injurious to *Lawler* and his family?

A. No, but the reverse; he told me, he was an honest industrious man, and never was more surprized in his life.

Cross-examined by Mr. McNALLY.

Q. *Ebbs* said, he never was more surprized than when *Lawler* was taken up as a *Defender*?

A. He did.

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Q. Did

Q. Did he tell you of any thing bad, which he knew of *Lawler*?

A. No.

Q. Did he then tell you of what he found in the dirt-hole?

A. No.

Q. If you had a lodger of whom you had a good opinion, and that he left bags of balls and slugs after him, would you not be surprized?

A. I must tell you further.—On *Friday* last I saw *Ebbs*; he came to me in our hall of which he is a free-brother; he said, he wished to have the furniture taken away, as he was afraid his house would be pulled down by the mob. Neither at that time, nor until this moment did I hear him say any thing against the man.

Q. The day of the conversation in the hall, was the day you returned yourself a common council-man upon a minority of votes?

A. It was the day of the election.

Q. That election has been set aside?

A. It has.

Q. Would you not change an opinion of a lodger, if you found ammunition after him?

A. I might.

Q. Do you not think *Ebbs* had a right to change his opinion?

A. No doubt but he might.

Q. Do you not think he was right?

A. Certainly.

A. When you spoke to *Ebbs*, did you say any thing respecting religion?

A. I did not.

Q. Then the character which *Ebbs* gave of *Lawler* was confined to the points of industry and payment of rent?

A. It was. He never mentioned his religion to me.

Q. Do you not think a lodging is as necessary to a rogue as to an honest man?

A. I believe so.

Q. And therefore it is necessary for a rogue to pay his rent, to secure his lodging?

A. It is.

Q. What

Q. What *Lawler* told you was consistent with what he told upon the table ?

A. He has told a little more here.

A. Nothing less ?

A. No.

Q. If a man laid down a plan, which he intended to support by evidence, would it not occur to him, as the first thing to be consistent ?

A. It might.

Q. Did you never hear of men being hanged upon the consistent evidence of a conspiracy to convict them, for the purpose of procuring rewards ?

A. I never did hear of it.

Q. If you were of that malicious disposition, would you not compose a train of lies to support your story ?

A. I do not think it easy to support a train of lies.

Q. But if a man gave information of certain facts before a Magistrate, though that were false, would he not endeavour to support it before a Jury ?

A. He ought to do it, if they were truths.

Q. When a man swears to a lie in one place, it is his object to make it appear as like it in another ?

A. I cannot say.

Q. Do you not believe that a man, who would swear to one lie in one place, would swear to another in another place ?

A. I should suppose so.

Q. If he told a lie before the Magistrate, would he not tell the same lie here ?

A. I think so.

Q. If he contradicted his informations, would he not be liable to an indictment for perjury ?

A. No doubt of it.

Q. If you had a good opinion of the consistency of *Lawler*, why did you ask, was he within hearing ?

A. I'll tell you my reason, because I should be happy to tell every thing with respect to the prisoner, as to *Lawler*.—*Lawler's* wife came to me and told me, that *Ebbs* wanted his rent—this was after *Lawler* was apprehended. I desired Mrs. *Lawler* to send *Ebbs* to me, and I would satisfy him. The reason I did this was, that *Lawler* should not understand, that any thing was done for him in consequence of any prosecution. I gave money to pay *Ebbs* the rent, and *Ebbs* was paid the rent, and he continued the furniture ever since.

Q. Then

Q. Then there have been pecuniary services for *Lawler's* family?

A. So far as that.

Q. How are you to be re-imburshed?

A. I could not think of letting him want after the information he gave me.

Q. It was from motives of charity in your own humane breast, that you advanced the money?

A. I did not say any such thing.

Q. Do you expect to be re-imburshed?

A. I do.

Q. Do you expect *Lawler* will?

A. I do not know but he will.

Q. By what means?

A. By his livelihood.

Q. What! do you expect that he will be let to live in the city of *Dublin*?

A. I do not see what is to hinder him.

Q. Then you do not see as far as I do.—*Lawler* has other expectations?

A. I believe not, because in the presence of Mr. *Kemmis*, he told me, he never expected any thing.

Q. Do you not believe he is acting in expectation of his Majesty's pardon?

A. For what?

Q. For his offences?

A. I do not know any thing of them?

Q. Do you not believe he expects a pardon?

A. I do not believe it.

Q. I ask you again; if he be guilty of the crimes, that he says he is, do you not believe he expects a pardon?—Do you not believe he is guilty?

A. I believe he is, and I tell you why? When I went to *England*, in 1792, I got an order to pay him a sum of money—10*l.* I went to look for him, and found he had changed his name: he came to me in the evening after, and told me he had enlisted, which was the cause of changing his name; and I went afterwards to the same place, and the woman told me, there had been a party of soldiers looking for him.

Q. You had 10*l.* to advance him?

A. I had.

Q. This was in *London*?

A. It was.

Q. You

Q. You knew him there?

A. I did.

Q. By virtue of your oath, do you know what brought him back?

A. No.

Q. You never encouraged him?

A. No.

Q. You employed him upon his return?

A. I did.

Q. He went to you as his best friend?

A. He was glad to work with me, as I have some of the best workmen from *England*.

Q. But he staid a short time?

A. *Gallagher* inveigled him from me.

Q. What was the 10 l.?

A. *George Drury* was guardian of this boy and another, and was owner of certain rents. There was 50 l. a-piece coming to the boys: and 40 l. had been paid to this man, and 10 l. remained due. *Drury* requested I would pay him in *London*, which I did.

Q. If *Lawler*, or any other person had told you he did not believe in a God, and afterwards told you he had been guilty of the offences he mentioned here, would you consider him to be a man to be believed in a court of justice?

A. I never heard any thing against him until this trial.

Q. Do you consider that to be an answer to my question?—Why do you evade it?

A. What is it?

Q. If a man told you, he disbelieved the three persons of the *Trinity*, and confessed the crimes this man has told, would you take him to be a man, who ought to be believed upon his oath?

A. I must confess it would shake my credit of him.—Upon getting the information I did I thought it my duty to myself, my country, and my King, to let Government be acquainted with it.

Evidence closed.

Mr. *Baron GEORGE*. Mr. *M^cNally*, as you are the single counsel for the prisoner, you are at liberty to observe upon the evidence if you choose, in addition to what you have already argued.

Mr. *M^cNally*. My Lords, I feel myself much indebted to your Lordships. I will just make one observation, which

which I omitted before—In all the evidence against the prisoner, with respect to conversations between him and *Lowler*, they are always stated without the intervention of a third person—all the conversation in *Blackhorse-lane* was private—without the privity of a third person, who could disprove the statement. This is the only remark I wish to make, as I will not trouble the gentlemen of the Jury further—Although I well know the ability of the gentleman, who is to reply to me. But I have seen the Jury take notes of the evidence upon which they will decide, not upon the arguments of counsel. The Jury are the judges of the life and death of this unfortunate prisoner—charged with an offence of prodigious weight.

Mr. *Solicitor General* spoke to evidence, on the part of the Crown. He said, that the marked attention of the Jury, during the progress of the trial, and the laborious and anxious situation, in which their Lordships had been placed, during the course of the longest session of *Oyer and Terminer*, that had been remembered in *Ireland*, would render him unjustifiable, were he not to condense his observation, within as narrow a compass as possible. He said, that it would be his duty to impress two points upon the minds of the Jury. 1st, That the existence of a treason, such as was charged in the indictment, had been established beyond controversy. 2dly, That there was sufficient evidence to convince every reasonable man, that the crime was brought home to the prisoner at the bar. As to the first point, it was a lamentable, and notorious truth, which the evidence confirmed, not only by parol proof, but by written documents, found upon the associates of the prisoner, and not attempted to be controverted, that this rank and foul treason has not only existed, but had burst forth into acts of most alarming outrage through many parts of the kingdom; and upon the present occasion, said he, we trace it under its various and mysterious modifications to have had the same actuating contagious principle, which has diffused itself from *France* through those seminaries of political mischief, and disease, which under the appellation of *societies, clubs, committees, and Defenders*, urged on by *French* missionaries, have infected and endangered both *Great Britain* and *Ireland*.

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As to the rules of law, said he, matured as they are by a series of judicial determinations in the various cases that have been adjudged upon the subject of treason, and the stat. 25 Ed. 3. what you, Gentlemen, have heard from my learned friend (the Attorney General) and what you will hear from the wisdom and authority of the Court, render it unnecessary for me to detain you upon that part of the case. The meeting, associating, consulting, and confederating with a body of men, leagued and united under the obligation of a deliberate oath, to be true to the *French Convention*, and to assist the forces of the *French* (at open war with the state) with an armed confederacy, in case they should invade the kingdom; the enlisting of men into the conspiracy, and the nightly arrangements for numbering and giving officers and discipline to the body, the subscribing money to purchase ammunition, the plundering the peaceable inhabitants of the country of their arms, for the avowed purpose of giving assistance to the invaders, amount in themselves to a direct invitation, and encouragement to the enemy to invade these, his Majesty's realms; and are plain overt acts of the treason in the two counts of the indictment, namely, the compassing of the King's death and the adhering to his enemies. Now in the body of evidence brought to substantiate the charge, there is one prominent feature, which arises out of the oath and catechism, which I consider together, as if they were one instrument, each part throwing light on the other, and to which I call the particular attention of the jury; as from the internal and immutable evidence arising from that instrument, from the manner in which it appears to combine the principles of the confederacy, from the authenticity which it has received, not only from the circumstantial evidence, by which it was identified, but by which it was traced to the sob of that associated *Defender*, on whom it was found, by aid of the information of the principal witness, *Lawler*. It constitutes a most important branch of the case, not only as an irrefragable proof of the treason which runs through every line of it, but also that from the previous description given by *Lawler* of its contents, and of the person upon whom it was found, there is the strongest degree of corroborating credit given to the whole testimony of that witness.

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Of the instructions, and signals, which accompanied that initiating, that ceremony of swearing, you have had a minute description, and *Lawler* has proved that the prisoner was well acquainted with those mysterious signals. He has also told you, that the first meeting of *Defenders*, at which he saw the prisoner, was at *Stoney-batter*, and that he, the prisoner, then appeared to him then to be *somewhat in liquor*. And here in conformity to those principles of moderation, and upright candour which have distinguished the conductor of the present prosecutions, I am free to acknowledge, that the prisoner's being *somewhat in liquor*, is a part of the evidence from which I ought not to draw your attention, and from his manner of saying it. The witness, in mentioning that fact, shews that his mind is divested of any malevolence, towards the prisoner. I will say, however, that if inebriety was to be an excuse for outrage, there would be 99 atrocious criminals in 100 of the lower order of the people of *Ireland*, who in truth, might plead it in bar of their being convicted. That intoxicating drug which is so unhappily and universally made use of in this country, is the constant preparatory to every thing that is desperate, amongst those, who may not be sufficiently susceptible of being inflamed by the writings of the illustrious *Thomas Paine*, whose doctrines an ingenious man has aptly called, the *whiskey of infidelity and treason*. At that meeting at *Stoneybatter*, which I have mentioned, *Hart*, who is proved to have been invested with the authority of a committee-man, in the presence of the whole company, expostulated with a person who was just introduced and appeared reluctant to be sworn, and who desired to know, what was the object of the engagement, to which *Hart* replied, in a loud voice: "*The object is to take arms from those that have them, that we may assist the French when they land.*" And at the same meeting, *Hart* commanded all present, to lay their hands upon the table, and to engage on the virtue of their *Defender oath* to attend on a future evening, that they might proceed to plunder an house of arms.

Upon a subsequent interview between the witness and the prisoner; he, the prisoner, relates the circumstances of a robbery, that was committed by him, accompanied by *Hart* and others, pursuant to their engagements; and

and the manner of breaking the house, the taking of arms of a particular description, the ringing of a bell, during the robbery, by some person within, and the exact geographical situation of the house, are all related by the witness, from the account the prisoner gave him. And the owner of the house that was robbed, has been examined, and has confirmed that account in most of the essential points: as to the arms taken, the bell ringing, the scite of the house, and the particular time and manner of the robbery, so as to leave no room to doubt of the prisoner being involved in the transaction.

The witness, *Lawler*, has undergone the most sifting scrutiny of examination for two days, in the course of this, and a former trial. That he was to have been a principal witness, has been publicly known, and the course of the cross examination, and the evidence adduced by the prisoner, shew to demonstration, that the prisoner's counsel have been thoroughly aware and instructed of the evidence for the Crown, branched out as it has been into such a variety of place, time and circumstance. It is next to an impossibility, that any fabricated tale of transactions so recent, involving so many persons, and the series of so many facts could have escaped detection, or that any thing but consistent truth could have supported itself, without a contradiction, either from the witness himself, or from some other quarter. But nothing of that kind has been attempted or argued. It has been indeed attempted, to shew however, that the witness is divested of all sense of religion; that he has been involved in many crimes, and that as he is an accomplice in the crime, which he now proves against another, he deserves no credit himself. Of the three witnesses, who have been called by the prisoner, the two first, after swearing to the irreligious sentiments of the witness, have acknowledged that they themselves continued long in the same political societies with the witness, who had come recommended from the *London Corresponding Society*, a philanthropic admirer of that same *Thomas Paine*, whose works were their principal study, and you, Gentlemen of the Jury, are the best judges which of the witnesses have been the most pious of his disciples. But this, you cannot forget, that after the time when *Lawler* was supposed to be arrested, those two witnesses enquired for

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him,

him, with the utmost solicitude of regard and friendship for their old associate. But, *Lawler* afterwards became a penitent and witness for the Crown !—Whilst he was an unreclaimed criminal, he was their friend; but when, by his discovery, he made attonement, he is infamous in their eyes.

Et hinc illæ lachrymæ.

Whilst he was a Defender, he was virtuous and a man of truth; but now he has revolted from them, and is an infidel. As for the third witness for the prisoner, it has been proved, that under the same impression as the other two, when first resorted to, and asked for the witness's character, he then represented him, as a most honest and industrious creature. This appears, from the evidence of *Mr. Cowan*, who was called to the credit of the witness, *Lawler*, after his credit had been thus impeached; for it is remarkable, that this is the only defence that has been attempted. Gentlemen, you have all heard *Mr. Cowan*, and you know him, and if any thing could raise a man of his known worth in estimation and merit amongst his countrymen, it would be his conduct on the present occasion. *Mr. Cowan* has told you of the sedulous industry of *Lawler*, who worked for him at his trade. He has told you of the voluntary disclosure made by him, at a time when there was not a shadow of accusation against him. He has mentioned to you his motives of conscientious remorse, and his horror of intended massacre, and he says, that he has been uniform and consistent from the first moment of his discovery; and as an instance of his present sentiments of *Lawler*, he has said that he (*Cowan*) would employ him hereafter at his trade.

But the learned counsel then interrogated in a tone of some significance.—“What, sir, do you think that “*Lawler* will be let to live in *Dublin*.” “If so,” says the counsel, “I think I can see further than you do.” Good God! can any advocate be so hardy as to insinuate that a witness who comes forward in aid of public justice, must do it at the risk of his life? Are we come to this? Is terror to be hung out to prevent the investigation of truth? And will any man dare, in the face of this tribunal, to raise such a suggestion?

Here the *Court* observed, that *Mr. M'Nally* was not in court, which they regretted, for though the expressions

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sions made use of by him, had not excited the same ideas, in their minds as in that of the Solicitor, yet from the sense that might be put on them; it was necessary the words should be explained.

Mr. Solicitor General. I did not perceive that the learned Gentleman had gone out since I begun. I ask pardon for mentioning, in his absence, what I had rather he was present to explain *.

It has been argued, that as this case must turn upon the evidence of the single witness, who is an accomplice in the crimes of which he accuses others, that no jury should credit him, and that no court should sanction a conviction upon his evidence. I am well aware that such an opinion was formerly contended for, and that even the competence of such a witness has been strenuously argued against. But since the case of *Charnock*, who was tried soon after the Revolution, before as great judges as ever sat in *Westminster-Hall*, no attempt has been made to support such an opinion, and capital convictions upon the evidence of a single accomplice have, in some late instances, been sanctioned by all the judges of *England* as reported by *Leach*. If it were not so, many dark and dangerous crimes would go unpunished; for the perpetrators of dark crimes are seldom known by any but the accomplices; and more so in this country, than any other, where nocturnal outrage has become familiar, and where convictions in most instances could never be had through any other means than the discovery of accomplices. And although a *dictum* to the contrary of the opinion which I maintain may have derived new force by what has lately fallen from an authority which every man must venerate, I will take the freedom to say, that upon principles as sound and as just as ever have been adopted in the law of evidence, and the investigation of truth, that a jury may be well warranted to find a verdict, and judges well

* *Mr. McNelly* had left court for the purpose of taking some refreshment, and upon his return, being informed of what had passed, explained, and said, his meaning was that that *Lawler* would be so covered with infamy, that no person in *Dublin* would employ him, and therefore he must seek his bread elsewhere. This explanation was deemed amply sufficient by the court, and the matter terminated to the satisfaction of all parties.

well warranted to sanction a conviction, even upon the evidence of a single accomplice.

But this is not a case resting upon the evidence of a single accomplice ; for exclusive of the intrinsic weight, and consistency of his evidence, here is a number of collateral, corroborative facts, arising from the testimony of others, as to the finding the oath in the sob of *Kennedy*, where *Lawler* had previously told it to be—the uniform relation of the facts to *James* and *Cowan*, and the detail of the robbery of *Finegan's* house, of the arms.

Besides, that no general and unqualified remark can attach upon the credibility of all accomplices. There are various gradations and shades of criminality that might tend to discredit, but neither the laws of God or man preclude the hope of exculpation by repentance, towards which, a fair, voluntary, and explicit disclosure of his guilt is the first step, to gain credit and reception to the penitent. And see how much more strongly this argument will hold in cases of treason than any other. It is of the peculiar essence of that crime, that the intention of the mind, manifested by overt acts, indicative of the intention, shall be a completion of the guilt. But evil "*into the mind of man may come and go.*" And no one of sound sense will say, that the man whose deluded mind had been betrayed into such overt acts, who took an early opportunity to revolt from his associates, before they accomplished their horrid purpose, and from a principle of remorse, disclosed and prevented the completion of the mischief, shall in point of moral turpitude be deemed as infamous as the man, who comes with his bloody hands to relate the murder which he had assisted others to commit.

There is one other striking feature of this case, that in my opinion, goes strongly to set up the credit of *Lawler*, and to attach criminality upon the prisoner, and his associates. For it appears, that the instructions from whence the cross-examination has been furnished, could not have been derived from any other source, but a direct and intimate privity and participation in all that criminality which is imputed to the witness. Thus we have it from the cross-examination, that *Paine's Age of Reason* was the *vade mecum* of the societies :—That the witness was the person best armed at the watch-house and

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at *Stoney-batter*:—from the cross-examination you have it, that the witness was employed by *Le Blanc*, the *Frenchman*, who has appeared a principal actor amongst the *Defenders*, as well as leader in a conspiracy to *put Cockayne out of the way* before *Jackson's* trial. Who is it that has heard what this cross-examination has brought out that does not believe the men in the dock were privy to the whole, and that does not stand appalled at the horrid work that midnight treason has been hatching?—And who is it that has heard the learned counsel ask such questions from the secret cabinet of his instructions, that is not convinced, that privity and participation have furnished those examinations, and linked traitors together, through every stage from that society, in which *Lawler's* mind was first corrupted, down to the lowest *Defender*, that has been the desperate instrument to carry into effect the most alarming system of assassination, treason, and rebellion.

These, gentlemen, are circumstances, which from their nature, could never have been revealed by any man that had not shared in their criminality; and being brought out by the prisoner, by their collision, they throw a light upon the whole, and flash conviction upon the mind of every man that heard them.

And now, gentlemen, give me leave to congratulate you and the country in which we live, however painful this enquiry has been, that after the irrefragable proof which we now have of the co-operation of *French* missionaries, with the promoting of treason and sedition at home, there yet remains that fair and impartial appeal to justice, which the prisoner, or those who have involved him, could not find in any part of the world, that is, not blessed by the British constitution—that constitution, which they have endeavoured to destroy.—In order to rescue the deluded from their guilt, by timely example—in order to save us from the degrading supplication to military justice.

In order to save us from these horrid butcheries which have deluged so great a proportion of *Europe* in blood.—I trust, that by a conscientious discharge of your duty, you will give your country cause to look up with veneration to the trial by jury.

Mr.

Mr. Baron GEORGE. *Gentlemen of the Jury.* The prisoner is indicted of high treason, in compassing the death of the King, and adhering to the King's enemies. The treason in adhering to the King's enemies is that, to which, in my humble opinion, you ought to apply the evidence you have heard. Gentlemen, by so doing, you will avoid every thing that would embarrass you in doing justice in this case. Gentlemen, the indictment states, that a public war existed between the King, and the persons exercising the government of *France*: it charges the prisoner with adhering to those enemies of the King, and it sets out what is called overt acts, which are necessary to be proved, in order to substantiate the charge. Gentlemen, I shall point your attention to one of these, in order that you may apply the evidence as I repeat it from my notes. It charges the prisoner with this, that he did join, unite, and associate himself with divers other false traitors, and with them did enter into, and become one of a party formed under the denomination of *Defenders*, for the purpose of adhering to the persons exercising the government in *France*, in case they should invade this kingdom. Therefore, in my apprehension, you ought to direct your attention to ascertain this fact to your satisfaction, whether the prisoner did unite himself with *Defenders*, for the purpose of adhering to the persons exercising the government of *France*, and assisting them, in case they should invade *Ireland*. Gentlemen, the principal part of the evidence and the proofs in this case, depend upon the testimony of *William Lawler*. The most material consideration, in truth, that arises in this case, is, whether any, and what credit is due to the testimony of that man?—For if the testimony he has given, shall be believed to be truth, I say, if that shall appear to be the fact (but concerning which, I and the rest of the Court will carefully avoid intimating any opinion of our own) in my apprehension, the present indictment will be proved against the prisoner, and you will be bound to find him guilty. But, gentlemen, to ascertain what degree of credit is due to him, it is the duty of the Court to apprize you of the legal objections to his credit. For under the circumstances, he is a competent witness; but it is our duty, to put you in possession of those objections to his credit, after which, you will be better able to estimate the weight of his testimony.

timony. Gentlemen, the law is clear, that a man, who is an infidel, and who has no sense of any religion, not believing in a future state of rewards and punishments, would not be a competent witness in a Court of justice. A man, having any species of religion, must be sworn according to the ceremonies of his religion; but the law considers it a farce to administer an oath to a man, not believing in God, and a future state. There is another objection to the competency of a witness, if he be rendered infamous by the judgment of any Court competent to convict him. If a witness be convicted by the judgment of a Court of treason, or felony, or any scandalous offence, such as perjury, he is held by the law of the land to be an incompetent witness, and such a man is not even to be heard by a Jury.—A witness also is incompetent, who is personally interested in any case in which he is produced. And therefore, where this interest consists in pecuniary consideration, or of any other kind, such as pardon for offences, it is a fit subject for the Jury to consider.—In a civil case, clearly, if a witness be interested, he cannot be examined. But in criminal cases, for the safety of the public, getting rewards does not in a court of criminal jurisdiction, disable him from giving testimony, though it may go to his credit. Gentlemen, under these circumstances, it is for you to consider, where the whole weight of the trial rests, in a great degree upon the testimony of one witness, how far, the fear of God has made him tell truth; to consider his moral character, and how much he regards the principles of society and the sanction of the laws, inflicting punishment for perjury. Gentlemen, you are also to consider, whether the person has any weighty interest to give evidence which may induce him to warp from the truth. If you believe this witness had not any principles of religion, that he is of infamous life and conversation, interested in the event of the case, then certainly his testimony, which he gives can only be supported by its own intrinsic weight, by consistency in itself. A witness suffering under a disability from personal character, can only derive credit from a long detail of facts, well and probably connected. Therefore, Gentlemen, in repeating the evidence over to you, I mention this observation, in order that, as I go along, you

you may direct your attention accordingly, and see whether there be any circumstances, which carry along with them intrinsic conviction, which will satisfy you, of their truth. No doubt, Gentlemen, the most satisfactory evidence, is where we see a man of religion, having an upright opinion of God, giving a clear and connected account of any transaction. Gentlemen, you are to determine, whether in the evidence which has been given, any such circumstances are to be found, and upon the whole matter, according to your consciences, and the best of your judgments to find the truth. The law allows the testimony of a man to be heard in a court of justice, under particular circumstances, even after he is detected in his own crimes, and is apprehended for them, and when, consequently, he is giving testimony to save himself and accuse others. But the condition of a man is at least one degree short of that, when he comes forward to give evidence, before he is suspected, or charged, or accused of those offences, which he proves; who voluntarily comes forward, and appears at a time when he might make his escape, he rather remains and gives evidence, voluntarily to accuse others. Gentlemen, upon the whole of the case, you are to consider the motives which influence the man in his testimony, and couple them with the rest of the evidence, and consider under all the circumstances, whether you do, or do not doubt the truth of his relation; because if you doubt the truth of the relation, you are bound to acquit the prisoner.

Gentlemen, the evidence of *Lawler* was (Here his Lordship read the whole evidence from his notes—and then proceeded) Mr. *Cowan* would have been as bad as any of the party, if he concealed the information which he received; it would be against the oath of his allegiance. If a man becomes acquainted by any means with treasonable practices, and takes no part, it will be a misprision. But in a master of a corporation, it would be a perjury, not to make it known. How could any man live in society, who had concealed matters of this kind, which if well founded, and not checked, tends to let loose all ranks of men upon one another.

This, Gentlemen, is the whole evidence which I have stated in the minute manner I did, after the observation I made to you, that you might see, whether it carries conviction

conviction to your minds. There are several facts which you must find, before you can convict the prisoner. This indictment states, and in truth the prosecution is founded upon that fact, that there is a party of men associated in this kingdom under the denomination of *Defenders*, for the purposes and with designs to assist, and adhere to the King's enemies, in case they should invade *Ireland*. It is necessary for you, gentlemen, in order to ascertain, whether becoming a *Defender* be treason, or a lesser offence, to know what the object of these men is, in becoming *Defenders*. Their object is discovered by their oath, their declaration and catechism, and the acts which they do.—As to the oath which you have heard, you must observe that the persons sworn upon that oath, who owe to their King allegiance during the joint lives of themselves and the King, qualify their allegiance to the King, whilst they live under the government:—qualifying their allegiance, having in contemplation a subversion of the King's government. The person, taking the oath, swears to be true *whilst he lives under the government*, presuming that something will be done to abridge that government.—He swears to be true to committees, superiors, commanders and officers—Who are these? It is for you to say to what the words should refer. Are they persons holding superiority under the King, or against the government of the country?—Are these men commanders of the King's army, bearing the King's commission, or are they such as has been mentioned, when one of the party required to know the number of *Defenders*, that officers might be appointed?—The party is sworn to obey in all lawful proceedings—To what does that refer?—He is sworn to be obedient to the laws made by the *committee*—Is that according to the laws of the land—or their own committee?

Gentlemen, it is fair, in my humble apprehension, that you should consider the import of these two papers together. The other instrument, which is a sort of catechism, begins in this way—"I am concerned—So am I.—With whom?—The *National Convention*," meaning the Convention of *France*—"What is your designs?—to dethrone all —gs"—the innuendo is to dethrone all *Kings*.—You are to judge, whether that innuendo be true. If the designs of these *Defenders* are, that they are concerned with the *National Convention of France*, that their

designs are to quell all nations, and dethrone all Kings—if you couple the papers together and consider those to be the designs of *Defenders*, you are to consider, whether they are treason, or not? What are their acts?—It was proposed, that arms should be taken from the houses to aid the *French*, when they should come—Whether *Leary* was there at the time the proposal was made, or at what particular time he was there, does not appear; but he told *Lawler*, he was out that night; and you are to consider whether that was a common felony or burglary, or done with an intent to take arms to use them as these people should think fit, when the country would be invaded. Persons collecting arms in this manner cannot be otherwise than adhering to the King's enemies. For what is so likely to incite invaders to come here, than to know, they will find assistance upon their coming.

Gentlemen, I have stated these things to you and will conclude now by saying, that if you believe *Lawler*, this indictment is proved against the prisoner. And if it shall, when he is charged upon an overt act of having become a *Defender* associated for these purposes, it will be a clear declaration to the public what the object of this society must be. Every man acting in concert with traitors, or assisting them before or after they act, is a principal traitor, for in treason there are no accessaries. Any sort of aid, or encouragement, that will make a man an accessary before or after in any other offence, will make a man a principal traitor in treason; and therefore you will consider, whether it makes any difference in the degree of guilt, that one appears to take a leading part, and another, one of his followers in the mischief—What injury could any traitor do, if he had not followers to assist him?

Gentlemen, if you find upon the whole of the case, inferences from the evidence of the facts stated, amounting to such a conviction brought home to your minds, as leaves no doubt, but that the prisoner is one of the persons called *Defenders*, and that their objects are treasonable, you are bound to find him guilty. But if under all the circumstances you should have any doubt, such as reasonable men may entertain, consistent with their consciences and their duty to their country, you will not consider the consequences whatever they may be, but find the truth, and acquit the man.

Mr.

Mr. *Justice* CHAMBERLAIN. *Gentlemen of the Jury.* It does not occur to me, that I can add any thing to what you have heard.

Mr. *Justice* FINUCANE. *Gentlemen.* I do not think I can add to it.

The Jury retired for one hour, and brought in a verdict.—*Not Guilty.*

Wednesday, December 30.

Clayton and Cooke were brought up to be tried, when Mr. *Attorney General* moved to postpone their trials; it had appeared upon the former trials, said he, that there are persons wicked enough to take away the lives of witnesses. One of the witnesses who was to prosecute those prisoners does not attend, and Mr. *Cowan*, another witness, has been attacked with the gout in his stomach, and cannot attend.

Mr. *McNally*. I have a doubt how far the Court has any discretion, under the *Habeas Corpus* act, to postpone these trials.

Mr. *Attorney General*. I admit, that if no indictment be found the first session, after committal, the prisoner must be discharged; and if one be found, and he is not tried the second session, he is to be *discharged*. But the act is silent as to the right of being *tried*. Then, my Lords, I leave it to your discretion. Upon the *Habeas Corpus* act, the right of trial remains as before. The prisoner may be discharged, but they are still liable to be tried.

COURT. If the prisoners presented petitions upon the first day of the session after their committal, and are not tried on the second commission, they are entitled to be discharged.

Mr.

Mr. *Attorney General* then addressed the Court, and the by-standers, in order to have it fully understood by the Prisoners and the public, that though the persons now in custody should be discharged from imprisonment, yet the prosecution was by no means given up, but would on the contrary remain in full vigour and be carried on as soon as the King's witnesses should be forth-coming. — He then descanted on the causes of those enormities which had brought the peace of the city and country, the property and lives of the public into the very imminent danger in which they had so lately been, and from which he hoped that the proceedings of this Commission would secure them. — Those evils he attributed to the very relaxed state of morality — the extreme and culpable inattention of masters and fathers of families to the manners and conduct of their children, and to the growing and alarming prevalence of irreligion and infidelity, which wherever they became general, destroy public happiness and public safety, and loosen all the bonds which hold society together. — As one instance of culpable neglect in the public to the morals of the rising generation, he mentioned the conduct of those many Masters who are become too proud to let their apprentices sleep in their houses. — It was a known fact, he said, that apprentices now were generally sent to lodge in other houses than their masters, and in that profession with which he was most nearly connected, that of an attorney, there were only two men in the city of *Dublin* who kept their apprentices in their own houses. The natural consequence of this was, that boys at a very early age became fit subjects of those wicked men to work on, whose object was to remove every religious and moral principle from the mind in order to make way for those abominable doctrines which they wished to inculcate. — He was not yet become a very old man, and yet he was old enough to remember a time when fathers and masters kept their children and apprentices at home, and taught them to pass their vacant evenings in some innocent amusement — now the evenings and the Sabbath were devoted to clubs and societies, where folly was taught to hatch treason, and imbecility to plot massacre. — To prevent effectually these dreadful crimes, which it was now fully proved had been attempted, the public must exert their own powers — the master and the father must again become the guardian of his servant and his child's innocence; and in order effectually

to

to preserve that innocence, the best way would be found to guard them against the temptations and the opportunities of vice. Much pains had been taken, he said, to misrepresent to the public what passed in that place—it had been attempted to throw such a degree of odium on the King's witnesses, as should induce the public to believe their testimony insufficient to convict men charged with secret and most enormous crimes.—It was true, indeed, that the witness on a late prosecution had been proved to be a man who had been guilty of very atrocious offences, but by whom can men that have committed crimes in secrecy ever be convicted but by accomplices? If men of purity and innocence only can convict in such cases, crimes the most dangerous to the public must for ever pass unpunished.

Cooke, Clayton, Turner, Flood, Hanlon and Clarke were then discharged from their imprisonment.

Thomas Dry, who had been out on bail on a charge of being a *Defender*, was called, and appearing, he was discharged on his own recognizance of 50*l*.

Mr. Attorney General said that the principal witness against *Oliver Corbally*, charged with high treason, had absconded. The Crown therefore would not produce any evidence against him.

A Jury was then impannelled, to whom *Oliver Corbally* was given in charge, and acquitted for want of prosecution.

James Weldon, who had been convicted, was now ordered up for sentence. His indictment was read, and he was asked, what he had to say, why judgment of death should not be pronounced against him?

Mr. McNally. My Lords, I shall humbly submit to your Lordships, that, the judgment in this case ought to be arrested. Each count in an indictment is in the nature of a separate indictment, and therefore each count should contain all the legal and essential requisites of an indictment. If any of these essential requisites be omitted, the indictment is vitiated, and the judgment must be arrested. Every indictment and therefore every count
ought

ought to have a formal conclusion; here the first count has not such conclusion. It does not say against the allegiance—against the peace—or, contrary to the statute. Therefore the first count is to be thrown out of consideration. But the Jury having, notwithstanding the direction of the Court, returned a general verdict, it became necessary to examine the second count, and that is objectionable for uncertainty in the specification of the offence. The indictment is founded upon the statute and ought to pursue the words of it—The statute says, “if a man be adherent to the King’s enemies, and give them aid and comfort either *within the realm, or elsewhere*”—The disjunctive particle in this sentence creates a second offence, perfectly distinct from the first. One offence is adhering to the King’s enemies *within* the realm; the other is adhering to them *without* the realm. This is somewhat a new case. I have taken pains to search for precedents of indictments for adhering to the King’s enemies and have found but one in the reign of *Elizabeth*, but it is so vague and such a riddle as not to hold a moment. But referring to the words of the statute, I wish to know, for which offence this man is indicted in the second count. The indictment should state that he adhered to the King’s enemies *within* the realm, or that he adhered to them *without*, according to the words of the statute constituting the crime. There is a strong reason for this. Suppose he were acquitted, he might be indicted for adhering to the King’s enemies *without* the realm, and he could not plead *auter foit acquit*, because he would be told the indictments were not the same. Therefore this indictment being essentially defective in omitting the words of the statute, the man is not convicted according to law. I take this to be a rule, that where two things are included within a sentence, separate in their nature, a man cannot be indicted indiscriminately for both, but the indictment should distinguish between them. There might have been a third count for adhering to the King’s enemies *within* the realm, or *without* and then a general verdict would prevent any objection.

Mr. Attorney General. My Lords, it will be very unnecessary for me to give you much trouble. It is said, you should arrest the judgment for error in both the counts.

It

It is said each count should be considered in itself as a complete indictment. For the substance of the charge, the rule is so. But where there are many counts, each specifying an offence, the indictment may have one general conclusion, going to the whole. As here, to simplify the case, the prisoner is charged with compassing the death of the King, and the next count specifies a new charge, that of adhering to the King's enemies. Both being thus specified, and there being prefatory matter, stating what the prisoner was, and his designs, then comes the general conclusion of the indictment, applying to both counts. If any man of common understanding, clear of technical modes of reasoning, read this indictment, he will find so, and it is according to the order used since the introduction of the English law, the conclusion always going to every count contained in the indictment. After having stated what the designs were, it says, he is guilty of compassing the King's death and of adhering to the King's enemies, and then there is a general conclusion, not confined to one or other count, but going to both offences included within the same statute. I believe all that which was so much to the disgrace of the law, in taking technical objections, has been exploded, in a variety of instances, and provided substantial justice has been done, courts of justice do not attend to objections of this sort, unless they are absolutely bound so to do. If in the common course of language this conclusion can be applied to both charges, your Lordships will do so, according to the modes now adopted upon cases of this sort, and it will be sufficient to refer your Lordships to your own understanding, without further argument.

As to the second objection, it is somewhat favouring of substance, that the indictment should state whether he adhered to the King's enemies, either within the realm or without. An objection of that sort being made, I expected, that some precedent would be shewn, or some authority that would warrant the objection. This indictment is conformable to the precedents I have seen, and when your Lordships look into the statute, you will find there can be no ground for the objection—"within the realm, or elsewhere"—is not part of the description of the crime, as set forth upon the face of the statute. The crime is "adhering to the King's enemies"—that is what the statute has declared—"If any man levy war, or be adherent to
" the

“ the King’s enemies in the realm and gives them comfort
 “ elsewhere”—if he adhere to them, by giving them comfort in the realm or elsewhere—in a word, as if the statute said—“ If he give them aid, let them be where they may”—let the act done be within the realm or without, he is alike guilty of adhering to the King’s enemies. Your Lordships see by the context, they are superfluous words, because it clearly shews, that if aid be given any where, the party giving it, will be guilty.

Here Mr. *Attorney General* was stopped.

Mr. *Justice* CHAMBERLAIN. We will not trouble you any further, and it would not be fair to the man, if we by our conduct insinuated, that the objections were likely to prevail. We are of opinion, that the objections are not founded; that the conclusion in sense and according to precedents goes to both counts. So it is in all declarations. Therefore there is nothing in the first objection.—We are also of opinion, that the essence of the offence is adhering to the King’s enemies, and it is immaterial where they are. It is an offence not constituted by statute, but an offence at common law, and the statute only says, that no man shall be indicted but for treason, as there specified, it is not created by the act—And indeed, if it were necessary, it does substantially appear, because two overt acts state, that an open and public war is carried on by the *French*, and that the prisoner was adhering to the persons exercising the government of *France*. So that if it were necessary, it is substantially charged that he was adhering to the enemies, without the realm.

Mr. *Justice* FINUCANE. I agree, that the conclusion goes to both counts, and with regard to the last count, I think the statute is completely complied with in this indictment. “ Be adherent to the King’s enemies within
 “ the realm or elsewhere”—At the time this statute was passed, no treason could be tried, but treason within the realm, and that is the treason specified, “ giving them aid within the realm”—then are added the words, “ or without”—How is the charge here? that the prisoner at *Liffey-street* in the city of *Dublin*.—The locality is annexed to the person adhering, not to the enemy to whom he adhered. Therefore this is a sufficient charge within the words of the statute.

Mr.

Mr. *Baron* GEORGE. I concur perfectly with the rest of the Court.

Mr. *Baron* GEORGE then, after a suitable and pathetic exordium, pronounced the sentence of the law, that the prisoner be executed on the 2d of *March*, 1796.

F I N I S.

Mr. James George. I cannot possibly write the
rest of the Court.

Mr. James George has been a member of the
Court since the first of the year and the
position he occupies on the 1st of March.

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R E P O R T

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OF THE

PROCEEDINGS

IN

Cases of High Treason,

AT AN ADJOURNMENT OF A COMMISSION OF
OYER AND TERMINER,

HELD IN AND FOR THE

CITY OF DUBLIN,

IN THE MONTH OF FEBRUARY,

1796.

No. III.

BY WILLIAM RIDGEWAY, Esq.

BARRISTER AT LAW.

D U B L I N:

PRINTED BY JOHN EXSHAW, No. 98, GRAFTON-STREET.

1796.

REPORT OF THE

OF THE

PROCEEDINGS

Case of High Treason

AN ADJUDICATION OF A COMMISSIONER OF

OTHER AND TERMINAL

IN THE CITY OF DUBLIN

IN THE NORTH OF IRELAND

OCT 12 1908

No. III

ST. PATRICK'S CATHEDRAL

RECEIVED AT DUBLIN

1908

PRINTED BY THE DUBLIN LITHOGRAPH CO. LTD.

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R E P O R T

**OF THE
PROCEEDINGS**

**IN
Cases of High Treason.**

COMMISSION.

Monday February 22d, 1796.

Lord CLONMELL sat as the Judge of the Commission,
and was assisted by **Mr. Justice CHAMBERLAIN**
and **Mr. Baron GEORGE.**

BRADY, Kennedy and Hart having postponed their trials at last Commission, upon the indictment then depending (*vid. ante*, No. II. p. 85.) new bills were sent up to the Grand Jury, which being returned *true bills*; copies thereof were served upon the prisoners previous to this Commission, and at their own desire, **Messrs. M'NALLY and LYSAGHT** were assigned their counsel.

This day **Thomas Kennedy** was put to the bar, and arraigned upon the following indictment:

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Note.

Note. The caption of this indictment varied from that in the former cases in this particular :—After setting out the commission as before (*vid.* No. 1. p 5, 6, 7. it proceeded) “to deliver the gaol of all the prisoners and malefactors therein, as often as occasion should require *by the oath of Richard Manders of the city of Dublin, Esq. Edward Burne,*” &c. (setting out twenty-three names) *of the same, merchants, good and lawful men of the county of the city of Dublin, aforesaid, then and there impanelled, sworn and charged to enquire for the said Lord the King, and for the body of the said county of the said city of Dublin,*” it is presented in manner and form following, that is to say :

“The Jurors for our Lord the King, upon their oath, present, That an open and public war, on the 20th day of *August* in the 35th year of the Reign of our Sovereign Lord George the Third, by the grace of God of *Great-Britain, France and Ireland, King* Defender of the Faith, and soforth, and long before was, and ever since hitherto by land and by sea hath been, and yet is carried on and prosecuted by the persons exercising the powers of government in *France* against our most serene and illustrious and excellent Prince, our said Lord the now King. And that *Thomas Kennedy* of the city of *Dublin* and county of the said city, yeoman, and *Edward Brady* of the said city and county of the said city, yeoman, subjects of our said Lord the King of his kingdom of *Ireland*, well knowing the premises, but not having the fear of God in their hearts, nor weighing the duty of their allegiance, and being moved and seduced by the instigation of the devil, as false traitors of our said Lord the now King, their supreme, true, lawful and undoubted Lord, the cordial love and true obedience, which every true and dutiful subject of our said Sovereign Lord the King, towards him our said Lord the King should bear wholly withdrawing and contriving, and with all their strength intending the peace and tranquility of this kingdom of *Ireland* to disturb and the government of our said Lord the King of this his kingdom of *Ireland* subvert, and our said Lord the King from his royal state, title, honor, power imperial Crown and government of this his kingdom of *Ireland*, to depose and deprive and put our said Lord the King to death

" death and final destruction to bring, the said *Thomas*
 " *Kennedy* and *Edward Brady* and each of them, on the
 " 20th day of *August*, in the 35th year of the reign of
 " our said Lord the King, and on divers other days and
 " times, as well before as after that day at *Suffolk-street*,
 " in the parish of *St. Andrew*, in the city of *Dublin*,
 " and the county of the said city of *Dublin* aforesaid, with
 " force and arms, falsely, wickedly and traitorously did
 " compass, imagine and intend, and each of them did
 " compass, imagine and intend the said Lord the King
 " then and there, their supreme true and lawful Lord of
 " and from the royal state, crown, title, power and go-
 " vernment of this realm of *Ireland*, to depose and wholly
 " deprive, and the said Lord the King to kill and put
 " to death, and that to fulfil and bring to effect their
 " most evil, wicked and treasonable imaginations and
 " compassings aforesaid, the said *Thomas Kennedy* and
 " *Edward Brady* as such false traitors as aforesaid, and
 " during the said war between the said Lord the King
 " and the said persons so exercising the powers of go-
 " vernment in *France* as aforesaid, to wit, on the said
 " 20th day of *August*, in the 35th year of the reign
 " aforesaid, at *Suffolk-street* aforesaid, in the parish of
 " *St. Andrew* aforesaid in the said city of *Dublin* afo-
 " said, and in the county of the said city of *Dublin*
 " aforesaid, with force and arms, falsely, maliciously
 " and traitorously did join, unite and associate them-
 " selves, and each of them did join, unite and associate
 " himself to and with divers false traitors to the Jurors
 " aforesaid as yet unknown, and did then and there
 " with such false traitors to the Jurors aforesaid as yet
 " unknown, enter into, and become of a party and
 " society formed and associated under the denomination
 " of *Defenders*, with design and for the purpose of
 " aiding, assisting and adhering to the persons so ex-
 " ercising the powers of government in *France*, and so
 " waging war as aforesaid against our said Sovereign
 " Lord the King, in case they should invade or cause
 " to be invaded this his kingdom of *Ireland*. And after-
 " wards, and during the said war between our said Lord
 " the King and the said persons so exercising the powers
 " of government in *France* and enemies of our said
 " Lord the King, on the 20th day of *August*, in the said
 " 35th year of the reign of our said Lord the King,
 " and

“ and on divers other days, as well before as after that
 “ day, with force and arms, at *Suffolk street* aforesaid,
 “ and county of the city of *Dublin* aforesaid, they the
 “ said *Thomas Kennedy* and *Edward Brady* as such false
 “ traitors as aforesaid, in further prosecution of their
 “ treason and traitorous purposes aforesaid, did and
 “ each of them, did, with divers other false traitors,
 “ whose names are to the Jurors aforesaid of our said
 “ Lord the King as yet unknown, then and there meet
 “ and assemble to confer, treat and consult for, and
 “ about the adhering to joining, aiding and assisting of
 “ the said persons so exercising the powers of govern-
 “ ment in *France* as aforesaid, and being enemies of
 “ our said Lord the King as aforesaid, in case they
 “ should invade or cause to be invaded this his king-
 “ dom of *Ireland*. And afterwards, to wit, on the twen-
 “ tieth day of *August*, in the thirty-fifth year of the reign
 “ aforesaid, and on divers other days, as well before as
 “ after that day, with force and arms, at *Suffolk-street*
 “ aforesaid, in the parish of *St. Andrew* aforesaid, in the
 “ city of *Dublin* aforesaid, and county of the city of *Dub-*
 “ *lin* aforesaid, the said *Thomas Kennedy* and *Edward*
 “ *Brady*, as such false traitor as aforesaid, in the further
 “ prosecution of their treason and traitorous purposes
 “ aforesaid, did then and there with divers other false
 “ traitors, whose names to the said Jurors are as yet un-
 “ known, wickedly and traitorously associate and unite
 “ themselves to, and with and each of them did associate
 “ and unite himself, to and with divers other false traitors,
 “ unknown to the Jurors aforesaid, and did along with
 “ said false traitors, to the Jurors aforesaid unknown,
 “ enter into and become, and each of them did enter
 “ into and become of a party and society united and
 “ associated under the denomination of *Defenders*, with
 “ design and for the end and purpose of deposing and
 “ dethroning by *force and arms* our said Lord the King.
 “ And afterwards to wit, on the said 20th day of *August*,
 “ in the said 35th year of the reign aforesaid, and on
 “ divers other days, as well before as after that day, with
 “ force and arms at *Suffolk-street* aforesaid, in the parish
 “ of *St. Andrew* aforesaid, in the city of *Dublin* aforesaid,
 “ said, and county of the city of *Dublin* aforesaid, the
 “ said *Thomas Kennedy* and *Edward Brady*, as such false
 “ traitors as aforesaid, in further prosecution of their
 “ treason

“ treason and traitorous purposes aforesaid, did then and
 “ there with divers other false traitors, whose names to
 “ the said jurors are as yet unknown, wickedly and
 “ traitorously in order to enlist and procure one *William*
 “ *Lawler*, a liege subject of our said Lord the King, then
 “ and there being to be aiding and assisting to the persons
 “ so exercising the powers of government in *France*, and
 “ enemies of our said Lord the King as aforesaid, in case
 “ they should invade or cause to be invaded this his king-
 “ dom of *Ireland*, and to engage and bind himself thereto,
 “ did then and there traitorously administer and cause
 “ to be administered on oath to the said *William Lawler*,
 “ He the said *William Lawler*, being then and there for
 “ that purpose previously sworn, a certain profession,
 “ declaration, and catechism, to the purport following,
 “ that is to say; I am concerned.—So am I.—With who?
 “ With the National Convention, (meaning thereby the
 “ National Convention of *France*.)—What is your
 “ designs?—On Freedom.—Where is your designs?—
 “ The foundation of it is grounded in a rock.—What is
 “ your designs?—Cause to *queal* all nations, dethrone all
 “ Kings, to plant the true religion in the hearts, be just.
 “ —Where did the Cock crow when the whole world
 “ heard him?—In *France*.—What the pass word?—
 “ *Eliphismatis*.—And afterwards, to wit, on the said
 “ 20th day of *August*, in the said 35th year of the reign
 “ aforesaid, and on divers other days as well before as
 “ after that day, with force and arms at *Suffolk-street*,
 “ aforesaid, in the parish of St. *Andrew* aforesaid, in the
 “ city of *Dublin* aforesaid, and county of the city of *Dub-*
 “ *lin* aforesaid, the said *Thomas Kennedy* and *Edward Brady*,
 “ as such false traitors as aforesaid, in further prosecution
 “ of their treason and traitorous purposes aforesaid, did
 “ then and there and each of them did then and there
 “ with divers others false traitors, whose names are to the
 “ said Jurors as yet unknown, wickedly and traitorously
 “ in order to encourage, corrupt, procure and enlist one
 “ *William Lawler*, a subject of our said Lord the King,
 “ to become one of a party and society formed, united,
 “ and associated for the purpose of subverting and over-
 “ turning by *force and arms* the government of our said
 “ Lord the King of and in this kingdom of *Ireland* as
 “ by law established, and of dethroning our said Lord the
 “ King, did then and there traitorously encourage, pro-
 “ cure

“ cure, and enlist the said *William Lawler*, to join him-
 “ self to and become of a party and society formed,
 “ united, and associated for the purpose of subverting and
 “ overturning *with force and arms*, the government of
 “ our said Lord the King of and in this kingdom of
 “ *Ireland*, as by law established, and dethroning our said
 “ Lord the King.—And afterwards, to wit, on the said
 “ 20th day of *August*, in the 35th year of the reign afore-
 “ said, and on divers other days as well before as after
 “ that day, with force and arms at *Suffolk-street* afore-
 “ said, in the parish of *St. Andrew* afore-
 “ said, in the city of *Dublin* afore-
 “ said, and in the county of the city of
 “ *Dublin* afore-
 “ said, the said *Thomas Kennedy* and *Edward*
 “ *Brady* as such false traitors as afore-
 “ said, in further pro-
 “ secution of their treason and traitorous purposes afore-
 “ said, did then and there, and each of them did then
 “ and there, with divers other false traitors, whose names
 “ to the said Jurors are yet unknown, wickedly and
 “ traitorously, in order to enlist and procure one *William*
 “ *Lawler*, a subject of our said Lord the King, to be
 “ aiding and assisting to the persons exercising the powers
 “ of government in *France*, and enemies of our said Lord
 “ the King as afore-
 “ said, in case they should invade or
 “ cause to be invaded this his kingdom of *Ireland*, and to
 “ bind and engage himself thereto, did then and there
 “ traitorously administer an unlawful oath to the said
 “ *William Lawler* to the purport following, that is to say,
 “ I, *William Lawler*, of my own good will and consent,
 “ do swear to be true to his Majesty King George the
 “ Third, whilst I live under the same government, more
 “ I swear to be true, aiding, and assistant to every brother
 “ bound to me by this application, and in every form of
 “ article from its first foundation *January 1790*, and in
 “ every amendment hitherto, and will be obedient to my
 “ committees, superiors, commanders, and officers in all
 “ lawful proceedings and not otherwise, nor will I con-
 “ sent to any society or any brother of an unlawful cha-
 “ racter, but will observe and obey the laws and regula-
 “ tions of my committee to whom I belong determined
 “ brother, nor in any violation of the laws, but to pro-
 “ tect my life and property and the lives and properties of
 “ my brethren, and I will subject myself to my committee-
 “ men in all lawful proceedings, and not otherwise dur-
 “ ing the reign of his Majesty King George the Third,
 “ whilst

“ whilst I live under the same government. I likewise
 “ swear I will meet when and where my Committee will
 “ please, and will spend what is pleasing to President and
 “ company; I will not quarrel nor strike any person
 “ whatsoever knowing him to be such, but will live
 “ lovingly and friendly with every one under that deno-
 “ mination; I will not rise any fight or quarrel on ac-
 “ count of my present *intrus*, or back that for unto my
 “ brotherhood.—And afterwards, to wit, on the said
 “ 20th day of *August* in the 35th year of the reign afore-
 “ said, and on divers other days as well before as after
 “ that day, with force and arms at *Suffolk-street* afore-
 “ said, in the parish of *St. Andrew* aforesaid, in the city
 “ of *Dublin* aforesaid, and in the county of the city of
 “ *Dublin* aforesaid, the said *Thomas Kennedy* and *Edward*
 “ *Brady*, as such false traitors as aforesaid, in further
 “ prosecution of their treason and traitorous purposes
 “ aforesaid, did then and there, and each of them did
 “ then and there with divers other false traitors whose
 “ names to the said Jurors are yet unknown, wickedly
 “ and traitorously, in order to enlist and procure one
 “ *William Lawler* a subject of our said Lord the King,
 “ to be aiding and assisting to the said persons so exercising
 “ the powers of government in *France*, and enemies of
 “ our said Lord the King as aforesaid, in case they should
 “ invade or cause to be invaded this his kingdom of
 “ *Ireland*, aid and assist, and then and there were and
 “ each of them was then and there present, aiding and
 “ assisting one *James Wildon*, in administering an unlaw-
 “ ful oath to the said *William Lawler*, and in administer-
 “ ing to and causing the said *William Lawler* to rehearse
 “ and repeat on oath a certain profession, declaration and
 “ catechism, the said unlawful oath being to the purport
 “ following, that is to say;—I, *William Lawler*, of my
 “ own good will and consent, do swear to be true to his
 “ Majesty King George the Third, whilst I live under
 “ the same government, more I swear to be true, aiding,
 “ and assistant to every brother bound to me by this
 “ application, and in every form of article from its first
 “ foundation, *January 1790*, and in every amendment
 “ hitherto, and will be obedient to my committee, supe-
 “ riors, commanders and officers in all lawful proceed-
 “ ings and not otherwise, nor will I consent to any
 “ society, or any brother of an unlawful character, but
 “ will

“ will observe and obey the laws and regulations of my
 “ Committee to whom I belong determined brother, nor
 “ in any violation of the laws but to protect my life and
 “ property, and the lives and properties of my brethren ;
 “ and I will subject myself to my Committee-men in all
 “ lawful proceeding, and not otherwise during the reign
 “ of his Majesty King George the Third, whilst I live
 “ under the same government. I likewise swear I will
 “ meet when and where my Committee will please, and
 “ will spend what is pleasing to President and company ;
 “ I will not quarrel nor strike any person whatsoever
 “ knowing him to be such, but will live lovingly and
 “ friendly with every one under that denomination ; I
 “ will not rise any fight or quarrel on account of my pre-
 “ sent *intrus*, or back that part for unto my brotherhood ;
 “ and the said profession, declaration and catechism being
 “ of the purport following, that is to say ;—I am con-
 “ cerned.—So am I.—With who ?—With the National
 “ Convention, (meaning thereby the National Conven-
 “ tion of *France*.)—What is your designs ?—On freedom.
 “ —Where is your designs ?—The foundation of it is
 “ grounded on a rock.—What is your designs ?—Cause
 “ to *queal* all nations, dethrone all Kings, to plant the
 “ true religion in the hearts, be just.—Where did the
 “ Cock crow when the whole world heard him ?—In
 “ France.—What is the pass word ?—Eliphismatis.”—
 “ * And the said Jurors of our said Lord the King upon
 “ their oath, further present, that an open and public
 “ war on the said seventeenth day of *August*, in the thirty
 “ fifth year of the reign of our said Lord George the third
 “ and so forth, and long before and ever since hitherto
 “ by land and by sea, hath been and is carried on and
 “ prosecuted by the persons exercising the powers of go-
 “ vernment in *France*, against our most serene illust-
 “ rious and excellent Prince George the third, now
 “ King of *Ireland*, and so forth ; and that the said *Tho-*
 “ *mas Kennedy* and *Edward Brady* (being then and there
 “ subjects of our said Lord the King) of his kingdom of
 “ *Ireland*, well knowing the premisses, not having the
 “ fear of God in their hearts, nor weighing the duty of
 “ their allegiance, but being moved and seduced by the
 “ instigation of the Devil, as false traitors against our
 “ most serene illustrious and excellent Prince George the
 “ Third

“ third, now King of *Ireland* and so forth, and con-
 “ triving, and with all their strength intending the peace
 “ of this kingdom of *Ireland* to disturb, and the govern-
 “ ment of this his kingdom of *Ireland* to subvert.—The
 “ said *Thomas Kennedy* and *Edward Brady* on the twen-
 “ tieth day of *August*, in the thirty-fifth year of the reign
 “ aforesaid, and on divers others days and times, as well
 “ before as after that day, with force and arms at *Suffolk-*
 “ *street* aforesaid, in the parish of *St. Andrew* aforesaid; in
 “ the city of *Dublin* aforesaid, and county of the city of
 “ *Dublin* aforesaid, unlawfully and traitorously were, and
 “ each of them was adhering to, aiding and comforting
 “ the said persons exercising the powers of government in
 “ *France*, and enemies of our said Lord the King, as
 “ aforesaid; and that the said *Thomas Kennedy* and *Edward*
 “ *Brady*, in the prosecution and execution of the said
 “ traitorous adhering of them, the said *Thomas Kennedy* and
 “ *Edward Brady*, to the said persons exercising the powers
 “ of government in *France* as aforesaid, and being enemies
 “ of our said Lord the present King as aforesaid: to wit,
 “ on the twentieth day of *August*, in the thirty-fifth year
 “ of the reign aforesaid, at *Suffolk-street*, in the parish
 “ aforesaid, and in the county of the city of *Dublin*
 “ aforesaid, with *force and arms*, falsely maliciously and
 “ traitorously, did join unite and associate themselves, and
 “ each of them did join and associate himself to and with
 “ divers false traitors, to the Jurors aforesaid, as yet un-
 “ known; and did then and there, and each of them did
 “ then and there with such false traitors to the Jurors
 “ aforesaid, as yet unknown, enter into and become of a
 “ party and society, formed and associated under the de-
 “ nomination of *Defenders*, with design and for the pur-
 “ pose of aiding assisting and adhering to the said persons
 “ so exercising the powers of government in *France*, and
 “ so waging war as aforesaid, against our said Sovereign
 “ Lord the now King, in case they should invade or
 “ cause to be invaded this his kingdom of *Ireland*.—And
 “ the said *Thomas Kennedy* and *Edward Brady*, in the pro-
 “ secution and execution of the said traitorous adhering
 “ of them the said *Thomas Kennedy* and *Edward Brady*, to
 “ the said persons exercising the powers of government
 “ in *France* as aforesaid, and being enemies of our said
 “ Lord the present King as aforesaid; to wit, on the
 “ twentieth day of *August*, in the thirty-fifth year of the
 “ reign

“ reign aforesaid, at *Suffolk-street* in the parish aforesaid,
 “ and in the county of the city of *Dublin* aforesaid, with
 “ force and arms, falsely maliciously and traitorously did
 “ join unite and associate themselves, and each of them
 “ did join, and to and with divers false traitors to the
 “ Jurors aforesaid, as yet unknown, and did then and
 “ there, and each of them did then and there with such
 “ false traitors to the Jurors aforesaid, as yet unknown,
 “ enter into and become of a party and society formed
 “ and associated under the denomination of Defenders,
 “ with design and for the purpose of aiding, assisting and
 “ adhering to the said persons so exercising the powers of
 “ government in *France*, and so waging war as aforesaid,
 “ against our said Sovereign Lord the now King.”

The same overt acts were stated in support of the second count, and in the same manner as set forth in the first, and then the indictment concluded as in the former cases.

The prisoner pleaded—*Not Guilty*.

The following gentlemen were sworn upon

THE JURY:

Alexander Kirkpatrick,	Joshua Paul Meredith,
Samuel Tyndal,	George Adamson,
Cornelius Gautier,	Samuel Middleton,
John Evatt,	John Ormston,
David Weir,	Meade Nesbitt,
Wm. Watson, Jun.	Godfrey Bourne.

Mr. Attorney General. My Lords, and Gentlemen of the Jury—I am in this case Counsel for the Crown.—Gentlemen, you are engaged upon a subject of the last importance;—a subject, the proper discharge of which may tend to restore peace to the country. But while it must be the object of every man to attain that end, it must not be attained by innocent blood. It is your duty to decide between the crown and the prisoner. It is the duty of us all to come at the truth;—having found it you will give your verdict accordingly. If the prisoner be innocent, you will acquit him. If on the other hand you be satisfied of his guilt, as men, having a regard to the sacred obligation of an oath, you will find him guilty, in order that

that by the example, other men may be deterred from committing the highest crimes known to the law. It will be my duty, Gentlemen, to state the facts, which will be given in evidence before you; and I shall briefly observe upon the crime for which he is indicted. Unhappily, Gentlemen, the crime of treason has been too much the subject of discussion for some time past—a crime so little known in this country for 100 years. The prisoner at the bar stands charged with high treason, in two respects: in imagining the death of the King, and in adhering to the enemies of the King. With regard to the first, you are to understand, and I will state it but briefly, as the Court will enlarge more fully upon it—that to find a man guilty of compassing the death of the King, it is not necessary that the Jury should be satisfied, that the intent was to take away the life of the King. It is sufficient, that you are satisfied, that the intent was such as necessarily led to that fatal consequence. If a man intend to levy war and dethrone the King, altho' in his own mind he has pre-determined not to put the King to death, yet, being satisfied that he intended to dethrone the King, that, in the eye of the law is a compassing of his death: because one cannot take effect without the other following almost of necessity. If you, Gentlemen, shall be satisfied, that the prisoner meditated to do any act, that led in its consequences to the death of the King, then you are to find the prisoner guilty. With regard to the second charge, that of adhering to the enemies of the King, it is impossible to make it more explicit, than the ordinary form of words. The crime of High Treason, which you are now sworn to pass upon, differs in the manner of establishing the guilt, from any other known in the law. The imagination or intent to commit the crime, is the crime itself. The mere intent, in any other case, will not constitute the crime; but because the King is the chief Magistrate of the State, and his presence is necessary to the tranquillity of the State, and of individuals, the law has made the imagining, intent and design in that instance criminal, and in that instance alone, the intent is a crime; but the law, while it does thus preserve the life of the chief Magistrate, does, with equal care, guard the life of the subject charged with such an offence; and tho' the imagination constitutes the crime, yet the law says, there must be evidence of a *fact* done to *show* that imagination; that

that is called an *overt* act, an act *openly* done. In the present case, it is not necessary that you should embarrass your minds with the charge of compassing the King's death, because if the evidence shall be given according to my instructions, it will support the charge of adhering to the King's enemies, and that is evidence of compassing the King's death. In short, the charge will be proved, that he adhered to the enemies of the King; and that will be established by clear overt acts. There are eight of them stated in the indictment; I shall not enumerate them all, but confine myself to those which are so plain that it is impossible for any man not to understand them, and will be so fully proved that no doubt can be entertained.—Gentlemen, there has existed, and there does exist within this kingdom of *Ireland*, what we all know, for it is impossible for a Jury to shut their eyes against it, a treasonable conspiracy against the established government in Church and State, by persons stiling themselves *Defenders*, in various parts of the kingdom, uniting themselves by signals and signs, by which they could be known to one another in any part of the country. These signals have been communicated to them from quarters not yet perfectly discovered; but the existence of the conspiracy has been proved, and will be again proved to you; it is as notorious as that the King reigns, or any other historical fact. The charge which you are now to try, is that the prisoner was one of that conspiracy. The overt acts to prove this, are what I shall now mention: a man of the name of *William Lawler*. [Here *Mr. Attorney General* stated the transactions which took place at the different meetings, which being detailed in the former cases, it is thought unnecessary to repeat.] He then proceeded—Gentlemen, if the evidence be as stated, the only question for your consideration will be, what credit should be given to the witness, *Lawler*?—Gentlemen, you may be told that he is a man of abandoned and immoral character, flagitious in his conduct, and reprobate in his principles, and therefore you are not to place any reliance upon his testimony.—Gentlemen, I do not wish to conceal any thing respecting the conduct, the manners, or the principles of the witness—he was certainly, at one time, an accomplice in guilt with the prisoners at the bar; but from whom is information of treasonable designs to be had, if it be not received from such men. Here the treason has been carried

on with secrecy—a secrecy secured by the solemnity of oaths and mutual pledges of attachment. If therefore, accomplices are not received, the system of treason must proceed until it is complete, and triumphs with impunity over justice and law. Respectable characters are not to be expected in such cases; loyal subjects will not embark in dark plots, conspiracies, and machinations against the State.. Here has been a treasonable conspiracy hatched in secret, which in all probability never would have been developed, but from the information of persons actually implicated in the crime. But, Gentlemen, though the witness who will be produced this day before you, might have been for a time connected with traitors, and an abettor of their conspiracies, will it be argued, that he might not have been a deluded man—that he might not have been awakened to a sense of his guilt—stop short before the completion of their crimes, and becoming sensible of the danger in which he had involved society, endeavour to make some atonement to his country, by confessing his criminality, discovering his accomplices, and rescuing his fellow subjects from the horrors of confusion, anarchy, and bloodshed, into which they were on the brink of being overwhelmed?—But in truth, Gentlemen, this witness will not appear in the light of a common approver, giving testimony from the hope of reward, and with a view to save his own life. This man was not in such a situation—no charge was made against him, he was not in custody, nor was any reward offered for discovery. He made his confession voluntarily; it was the conscientious result of a repenting mind, and of alarm and terror excited by the discovery of designs of blood and massacre, which had not been previously communicated to him. Neither, Gentlemen, are you to consider him as an uncorroborated witness. On the contrary, his testimony is confirmed by facts, incapable of contradiction. Indeed the law of treason in *Ireland*, makes the evidence of one witness sufficient to convict a prisoner, if that evidence be received by a Jury as credible. In the present case, you will have strong concurring evidence to establish the veracity and consistency of the witness, namely, papers found in the fob of the prisoner's breeches, which papers were so found in consequence of the previous information given to the Magistrate by the witness. But, Gentlemen, I do not urge this with a view of making an impression upon your

minds

minds unfavourable to the prisoner: the evidence will be highly deserving of your consideration, and I have no doubt, will be minutely attended to.

Gentlemen, before I conclude, I must beg leave to say a word with respect to the attempts which have been made to influence the public mind, and agitate the feelings of the public, by abominable and scandalous publications in newspapers, reflecting upon the credit of *Lawler*, the witness; publications which have been filled with misrepresentation, and are calculated to defeat the ends of public justice. Gentlemen, I do not say this to raise a prejudice in your minds against the prisoner, but to encounter that which by possibility may have been excited through the medium of those publications to which I have alluded.—In truth, Gentlemen, the trials of *Weldon* and *Leary* went upon distinct grounds; and I do aver, and shall unquestionably prove it, that upon the evidence given in the respective cases, *Weldon* was justly convicted, and *Leary* perhaps reasonably acquitted.

Mr. *Lysaght*. I must beg leave to interrupt Mr. *Attorney General*. I conceive it is not regular to allude to past trials, even in statement.

Lord CLONMELL. I never heard that it was carried further than in case, where Mr. *Yorke* declared, that nothing should be stated which could not be given in evidence.

Mr. *Attorney General*. My Lord, I do not mean to urge any thing which is not regular; and upon the whole of the case, I conjure the Gentlemen of the Jury to discard every prejudice from their minds—to reject every thing which they have previously heard—and to rest their verdict solely upon the impression which will be produced by the evidence in Court.

WILLIAM LAWLER,* *sworn*.

Examined by Mr. SAURIN.

Said he went to *London* in the year 1791, where he worked at his business, which was that of a gilder;—became

2

* The general tenor of the witness's testimony upon this trial, corresponding with what he had given in the two former cases, induces the reporter to abridge it considerably, and to state it in the form of a narrative, rather than by question and answer, as has been done where it is set forth at large.

a member of the *London Corresponding Society*—their object was a radical reform in Parliament—returned to *Ireland* about two years ago—had a letter of introduction from *Daniel Isaac Eaton*, a bookseller in *London*, to Mr. *Archibald Hamilton Rowan*, of *Dublin*—did not know the contents of the letter, but it was to introduce him to Mr. *Rowan*—did not ask *Eaton* for the letter, but understood, he corresponded with *Rowan*.—Witness upon his return to *Ireland*, became a member of a society—does not recollect the name—it was soon after dissolved, but was a republican society—gave the letter to a servant of Mr. *Rowan*'s, two or three days after he arrived—does not know the street, it was the left hand of *Britain-street*—called in a few days, and saw Mr. *Rowan* himself—he gave witness a print of *Thomas Paine*.—Witness became acquainted with *Burke*, who was expelled the College, and *Atkinson*, the son of a watch-maker in *Skinner-row*, who told him *Burke* was collecting ten men, and desired witness to meet him at *Gallan's* in *Crane-lane*—the *Telegraphic Society* afterwards met in *Hoey's-court*. *Burke* told him the plan was that he himself named ten, each of whom was to find ten others, and each of those were to find five—this would make a sufficient force to take the *Castle of Dublin*—one hundred were to be clothed in scarlet uniforms, to make the citizens believe the soldiers had joined them—witness made up his ten in a fortnight, and procured a room in *High-street*, where they met—they were called the *Philanthropic Society*. About a fortnight after the *Fermanagh Militia* went to *Lehanstown Camp*, witness became a *Defender*—was introduced to that Society by *Kennedy* the prisoner at the bar, and *Brady*—they called at his lodgings on *Sunday* evening, and brought him to the Horse Barrack, where he was to be sworn a *Defender* by *Weldon*, to whom witness was to pay a shilling, as he was a *Committee-man*—had known *Brady* and *Kennedy* before—they were members of the *Philanthropic Society*—had a conversation with them three weeks before about *Defenders*—they said there was a thing getting among the army, so that they could do without the societies—they said they were sworn by *Hanlon*, of the *Fermanagh Militia*, and as *Hanlon* had gone to the camp, they would bring the witness to *Weldon*, whom they met at a public house opposite the *Barrack-gate*—they were joined by *Clayton*—*Weldon* said, “Had we not better make these two?”

two?" meaning *Clayton* and the witness—a prayer book was produced, and *Weldon* pulled two papers out of his pocket, desired the witness and *Clayton* to lay their right hands on the book, and repeat after him, which was done—these are the papers. The next time witness saw these papers, was about eight days after *Weldon* left town, in the possession of *Kennedy* in *Drury-lane*—*Murphy* and *Pay* were with the witness—knew them to be *Defenders*, by their using the signs—*Kennedy* came out of his Master's house into *Drury-lane* with these papers—witness challenged them, loud enough for all to hear—*Kennedy* allowed them to be the same papers. When *Weldon* swore them upon the test—he told them the signs by which they might know a *Defender*. [Here the witness described the signs as before, *vide p. 39.*] *Weldon* said *Elipbismatis* was a latin word, but he did not know the meaning of it. He also said, "If the King's head were off to-morrow, they would be no longer under his government." Witness asked *Weldon*, was he not afraid to carry those papers about him—he said no, for he was never searched, and did not care who saw the large one, the small one was the principal, the other was only a test on account of swearing the soldiers. *Brady* asked if there was any one to head them? *Weldon* said there was one in the *North*, but did not mention his name. *Kennedy* asked how they would be informed? *Weldon* said there would be letters sent through the country to inform the *Defenders* when they were to rise. *Brady* asked how every one would know it? *Weldon* said, by the *Committee-men*—he would tell *Brady* when the next meeting would be held, that there would be one next week. *Clayton* and *Kennedy* then went away, the rest remained drinking punch—they were all sober; but *Kennedy* was obliged to go home, being an apprentice. [The witness then gave an account of the meeting in *Plunket-street*, precisely as in the former case, *vide p. 41, 42.*] —The next meeting was at *Stoneybatter*, which was held for the purpose of going out to take arms. *Hart* swore a young man, and mentioned that their object was to assist the *French*. (*Vide p. 43, 44.*) This was some time in the month of *August*. The next meeting was at *Nowlan's*, in *Drury-lane*, on *Sunday* the 23^d of *August*—a good many attended—*Coffey* was in the Chair—he wanted to know how many *Defenders* were in *Dublin*, that they might have officers placed over them—it

was

was agreed to meet on the *Sunday* following, when the committee-men would report the numbers.—*Hart* and the witness were called to order for talking together.—*Hart* told him—[this evidence was objected to and not admitted]—the day after he ceased to be a *Defender*, and gave information to Mr. *Cowan*, in *Grafton-street*.—Witness's reason was on account of what he had heard from *Hart*, as to the designs of the *Defenders*;—heard there was to be a meeting at *Crumlin*, told Mr. *Cowan* of it, and also Alderman *James*;—witness went there to delay them—they went to that place to be out of the way—the prisoner was not at *Crumlin*—witness told the Alderman he would be there, and knew he himself was to be taken with the rest—told Alderman *James* that the papers upon which witness was sworn by *Weldon*, were in *Kennedy's* fob—saw them at a meeting at *Dry's* in *Cork street*, on the 23d of *August*, when they were produced by *Kennedy*, who took them from his fob, and asked if *Lewis* was not a proper person to be sworn a *Defender*?—was answered by *Dry* he was—*Coffey* produced the prayer book—*Kennedy* laid the papers upon *Coffey's* bed, which was strapped up like a trunk—there were three papers—*Kennedy* said he had written one himself, for there was one of *Weldon's* which he did not like—witness paid no attention to the third paper;—after *Lewis* was sworn, *Kennedy* put the papers into his fob again—*Lewis* called on witness the same day after dinner—they went to the *Philanthropic Society*, which usually met at *Dry's* in *Cork street*—it was to meet that evening at five o'clock—the meeting at *Nowlan's* was to be at six—*Lewis* was sworn before they went to *Nowlan's*—saw the papers with *Kennedy* at *Dry's*, but not at *Nowlan's*—when he read the papers, he read —g's *Kings*.

The two papers were then read, for which *Vide* Indictment.

Cross-examined by Mr. McNALLY.

Was brought up in the Protestant religion—his father and mother were Protestants—knows that every true Protestant believes in the *Trinity*—went with the Methodists before he went to *England*, but did not then deny the Protestant religion—sometimes went to Church—sometimes to Chapel—continued a methodist after his return to *Ireland*—has read the 1st and 2d parts of *Paine's Rights of Man*, but never read his *Age of Reason*—always

believed in *God*, and a future state, but *Burke* wanted to persuade him to believe there was no *Saviour*, and that he was a false prophet;—*Burke* gave him a little book written by himself, and signed with his name, in support of his doctrine—it shook witness in his belief, but he was since convinced of his error, and was sorry for it—had done many things before which were wrong.—Witness asked the Chairmen, at the corner of the street, what number *Rowan* lived at—the name of the street was on the back of the letter—*Eaton* told him, he mentioned him in the letter to *Rowan*—never was charged with bringing a false letter to *Rowan*—there was a false name in the letter to *Rowan*, for witness went by the name of *Wright* in *London*, and that must have been the name in the letter—when witness told *Rowan* his name, where he lived and of the *Corresponding Society*, *Rowan* did not ask him to come again—he gave witness some printed papers, does not recollect exactly what they were—never was charged with being a thief—it was said he took a frame from *Mr. Robinson's*, but another person afterwards told him he knew who stole it—*Rowan* asked him about the Society in *London* and the Militia, and about forming a Society here—this passed in *Newgate*—one *Strephon*, who came to witness, mentioned a wish, that there should be a Society formed here like the *London Corresponding Society*—witness advised an application to *Rowan*, who approved of it, but desired them to be cautious, as they saw what a scrape he had got into—the reason he changed his name was on account of his having enlisted, and deserted—does not exactly recollect what he swore when he was attested—was not then a member of any Society—after he deserted, he became a member of the *London Corresponding Society*, went publicly there, and being but little known, thought there was no danger of his being apprehended, particularly as he had changed his name—belonged to the 16th division of the *Corresponding Society*—believes he was guilty of a breach of his oath, when he deserted, is sorry for it—he collected ten members for the *Philanthropic Society*, they were sworn not to withdraw from the Society, nor divulge their secrets—did not upon any former occasion swear in evidence, that the oath was, not to give evidence against each other—hopes he will be pardoned for all his offences, but cannot hope for reward, as nothing had been promised him—made no objection to

Weldon's

Weldon's oath, nor was he shocked at the supposition of the King's head being cut off—he did not then think it a criminal act—one of their members had been arrested and lodged in a watch-house—they went to take him out, there was a shot fired—is not bound to tell who fired the shot—after a meeting in *Stonybatter* with *Fay* and *Kennedy*, the prisoner and some others, they had a talk of a design to attack the CHANCELLOR in the course of the winter, as he returned from the House of Lords, and to hang him from one of the trees in *Stephen's-green*—did not mention this in his information to Alderman *James*, but intended to have mentioned it to him; it might not have come out now had not Counsel desired him to tell all the treasons he knew of—does not know who threw the stone at the CHANCELLOR, nor did he see it thrown—told Alderman *James* the reason he became a *Defender* was to know what they were about—agreed with them in every thing but what he heard *Hart* say—has been kept in close custody in the Castle for three months for the purpose of giving evidence against the prisoners—*Burke* was the principal person, who led him astray in religious matters—*Mr. Cowan* advised him to give information—was standing in *Dame-street* the day Lord CAMDEN arrived here—was also in the Castle-yard that day—never threw a stone at the CHANCELLOR, nor heard of a stone being to be thrown, till after it was thrown—does not recollect any reason he had for going home early the evening the stone was thrown—was called on and went out with the party to confine *Cockayne*—were prevented by his not being at *Mrs. Jackson's*—*Le Blanc* said if *Cockayne* was put to death, what he had sworn would stand good;—witness had a pistol when he was in the watch-house—there was a pistol fired, it had a ball in it—was present at the attack upon a house the corner of *Bull-alley*, in going home—had pistols about him, but does not know whether he had charged them or not—it was a crimping-house;—believes the oath was written by *Hanlon*, the *Fermanagh* militia-man.

ALDERMAN JAMES, Sworn,

Examined by Mr. SOLICITOR GENERAL.

Lawler came to him with *Mr. Cowan*, about the 26th of *August*, and lodged informations. His evidence upon the

the former trials and the present, corresponded with the account he then gave, except as to the design upon the CHANCELLOR. The Alderman issued warrants against several persons in consequence of the informations, and he desired Mr. *Carleton*, the Chief Constable, to be particular in examining *Kennedy's* fob, for *Lawler* said the oath would be found there—took *Lawler's* examinations the first time he saw him—no examinations had been lodged against *Lawler* at that time, nor did the Alderman ever issue a warrant for his apprehension, but issued warrants against many other persons upon his informations.

Cross-examined by Mr. LYSAGHT.

Lawler did not disclose the circumstance respecting the CHANCELLOR—The Alderman thought it his duty to find out every thing—cannot say that *Lawler* intentionally withheld it—he did not disclose the circumstance of his enlisting or deserting, or that he had fired a shot into the watch house.—He was examined after dinner, about eight o'clock—no warrant was issued to apprehend him, but he was taken at the house of one *Toole* in *Crumlin*, in consequence of his information that he would be there.

Oliver Carleton, Esq.

Examined by Mr. RUXTON.

Was High Constable of Police in *August* last—received warrants from Alderman *James* against *Kennedy*, the prisoner, and *Brady*, in consequence of which he went to *Stephen-street*, between four and five in the morning of the 27th of *August*—rapped very loud at the door, two persons came to a gate and opened it—he asked their names, they answered, *Kennedy* and *Brady*—he took them into custody, and agreeable to the directions he had received, was particular in searching *Kennedy's* fob, in which he found the oath and catechism—[they were here shewn to the witness, and he identified them from the initials of his name.]

Cross-examined by Mr. M'NALLY.

He asked *Kennedy* how the papers came there, and what was the use of them?—He made no answer.

Case rested for the Crown.

Mr.

Mr. *McNally*. My Lords, and Gentlemen of the Jury, I am of counsel in this case with my learned friend, Mr. *Lysaght*; and it therefore becomes my duty to call your attention to the defence of the unfortunate young boy, who stands a prisoner at the bar of the Court, arraigned for High Treason. Gentlemen, I apply to him the epithet of unfortunate, not because the evidence that has been given against him, can, in my humble opinion, impress your minds with a conception of his being guilty, but, because any subject of the Crown, standing in his situation, standing in that dock, and before this tribunal, accused of the most heinous offence the law recognizes, and punishable by the most cruel sentence the law knows, must be considered as unfortunate, however conscious of his own innocence. Gentlemen, I address you on the part of this unfortunate youth, under the influence of that reverential awe that always influences my mind when calling for the attention of a Jury of your description. A Jury which I am convinced, from my personal knowledge of some of you, and from the general character of you all, is composed of wise and intelligent men; men who are well acquainted with the principles of those laws under which we live, and by which the lowest of us are protected, and fully adequate to the honest discharge of that high and respectable, I was going to say paramount office, which they fill. In addressing you, Gentlemen, I must of course, feel for my own deficiency; but I find consolation from this reflection; that you, actuated by the principles of mercy, while guided by the rules of law and justice, will contribute every aid to such observations as I shall submit to your deliberation. Gentlemen, every man who admires and loves the constitution of his country, (and every man who is not either a knave, a fool, a lunatic—or an infant, must admire its system,) I say every man who loves and admires the system of our constitution, must look up to Juries as the legal guardians, protectors, and conservators of the lives, the liberties and the properties of the people. I consider a Jury as a political citadel, placed in the centre of the constitution—a citadel, where liberty has often planted her standard, and where she must always make an effectual stand against oppression and tyranny, unless betrayed by those whose sacred duty it is to protect her. Gentlemen, it is necessary that I should

• should make a few observations to you on what has fallen from Mr. *Attorney General*, in stating the case for the Crown; and my leading observation is, that the learned Gentleman, in the discharge of his official duty, has this day, in the most honourable and candid manner, stated the case against the prisoner, without an attempt to aggravate or colour the charge; and I doubt not but those other learned counsel for the prosecution, whose duty calls upon them to follow Mr. *Attorney General*, will adopt the same manly and humane conduct.

I beg leave, Gentlemen of the Jury, to remind you of the excellent caution urged with warmth and with clemency, by the *Attorney General*. He cautioned you against acting under prejudices resulting from extrinsic causes. His advice was just, legal and wise. A Juror should divest his mind of all extrinsic matters; he should come into that box pure, unsullied and unbiassed as an infant entering into life; the evidence given in Court should be the only object of his deliberation. On the evidence sworn to in Court, and that evidence only, he is bound in conscience, by his oath, to form his verdict: For what is his oath? He is sworn on the Testament of his faith, that he will well and truly try, and a true deliverance make between his Sovereign the King and the prisoner, *according to evidence*. For this reason, Gentlemen, if *French* politics or *French* depredations, be stated, you will consider them as extraneous to the matter in issue; and, for this reason, should the counsel for the Crown attempt to engage your passions by adverting to the distracted state of this or that country, you will expunge such statement from your recollection. For, Gentlemen, you are not sworn to give a verdict upon the state of *France*, or upon the state of *Ireland*, but truly to try upon the evidence, given to you upon oath, whether the prisoner be guilty or not guilty of the crimes of High Treason, charged upon him by the indictment. Gentlemen, the *Attorney General* has adverted to the public news papers, and has stated to you that through their medium pains had been taken to influence the public mind, in respect to the trials for treason, now prosecuting by government. Gentlemen, I do think with Mr. *Attorney General*, that animadversions on legal proceedings while they are pending, is an offence: but if Mr. *Attorney General* has read all the public papers, he must know that such animadver-

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sions have not been confined to papers of any particular political description ; for in those papers denominated *Court prints*, the writers of them have not only traduced those who have appeared as witnesses for the prisoner, but those employed as their Counsel. In one of those morning prints, I have been noticed with censure, and the character with whom I had the honour to act on a trial at the last Commission, a character as great and eminent for genius, as ever appeared at this or any bar, has been calumniated for exerting his paramount abilities in defence of his client. But, Gentlemen, I am satisfied that whatever you have heard, or whatever you have read relative to the subject now before you—you will obliterate from your memories, confining your deliberations solely to the evidence given in open Court. Gentlemen, Mr. *Attorney General* has spoken of the necessity of making an example—in my humble opinion this was not a subject to be addressed to you ; for Gentlemen, it is not your province to make examples, that last and distressing duty, founded in necessity, belongs to another tribunal.—Your duty is to hear the evidence, and on the credit you give the evidence to acquit or convict—and I trust, from the nature of the evidence, acquittal will this day mark your verdict—and that the prisoner will not be found a subject for example.

There are, Gentlemen, but two leading features in this case to which I shall call your attention :

First, Mr. *Lawler*, the principal witness produced on the table, and secondly, the evidence given by that witness. As to the witness, though he does not come under the legal description of an approver, as on a former occasion, was stated by the Bench, yet it clearly appears, from his own confessions, that he has been a *particeps criminis*, in a catalogue of offences as vile and black as ever stained a human heart, or disgraced the character of man ; therefore he comes before you, Gentlemen of the Jury, in at least a questionable shape, and within that rule of law and legal evidence, that has been laid down by one of the wisest, and what was more to his honour, one of the humanest Judges that ever presided in an *English Court of Justice*. I allude, Gentlemen, to that celebrated Jurist, whose noble and independent conduct deservedly procured him the title of the "*Great Lord HALE*."—What are the words of that great man upon Approvers ?

I will

I will tell you, Gentlemen, his opinion upon such witnesses. Lord HALE says, " though an approver be admissable as a witness in law, yet, the credibility of his testimony is to be left to the Jury, and truly it would be hard to take away the life of a person upon the evidence of such a witness, that swears to save his own; and yet confesseth himself guilty of so great a crime—unless there be very considerable circumstances, which may give greater credit to what he swears."—This opinion will be found in HALE'S Pleas of the Crown, p. 305.—Gentlemen, it will be for you to consider whether the witness, *Lawler*, comes within the description given by the great and good Lord HALE—and it will also be for you to consider that Lord HALE is here speaking of a witness implicated only in the offence he is called to prove, coming forward charged only with one crime.—But, Gentlemen, what would the learned and benevolent Lord HALE have said, if he had been speaking of such a witness as *Lawler*? If he had been speaking of a *particeps criminis*, who had declared he had taken the oath of allegiance, as a soldier and a subject, and had violated that oath? If he had been speaking of an impious man, against whom it had been proved, that he had denied the existence of the persons of the *Trinity*? If he had been speaking of a man who had administered oaths to seduce and delude youths, had sworn them never to prosecute *Defenders*, and had then come forward and prosecuted them himself? If he had been speaking of a man who had united with conspirators to assassinate a witness? If he had been speaking of a man who had confessed, there was a time when he did not think it a crime to take off the head of his sacred Majesty, and destroy the government? I add, destroy the government, because the existence of the constitution and government of this country depends upon the existence of the King?—A man, who, when the question was put could not deny, and therefore refused to answer that he once fired a charged pistol into a watch-house, with intent to commit murder; and that there was a time, and that recent, when he did not consider it a crime to lie in wait for the purpose of seizing and hanging no less a person than the Lord HIGH CHANCELLOR of *Ireland*.—'Tis true, Gentlemen, Mr. *Lawler* is by his own account a repentant sinner, for he has told you, he hopes to obtain forgiveness from government and
from

from God. He has now told you how long repentance has dawned upon him—but if he has repented, how does the sincerity of his contrition appear?—Does it appear as it ought?—Does it appear he has made a full confession of all his offences?—No, for it appears that he suppressed the whole of the intended assassination of the *Lord Chancellor*, and the intended assassination of *Cockayne*, when he gave in his information on oath to Alderman *James*.—Alderman *James*, I presume, admonished him, and swore him to tell the truth, and he suppressed the truth. I admit, Gentlemen, that necessity on particular occasions, justifies the admission of such witnesses as Mr. *Lawler*, otherwise, if that was not the case, the most atrocious offences would often escape with impunity; but permit me, Gentlemen, to advert to the great *Lord Hale*, and on his authority to observe, that even in such cases, there must be strong corroborating circumstances to give credence to the man who, even voluntarily, comes forward to save his own life, by the sacrificing the life of another.

Gentlemen, the papers found on the prisoner and produced in evidence to support this prosecution, will, probably, be held up to you, and expatiated on by the counsel for the Crown, as strong corroborating circumstances.—But you must have remarked, that no evidence was given by *Lawler* to shew that these papers are the identical papers that were in the possession of *Weldon*; of course it does not appear to you that those papers were ever appropriated to any use, or ever published in any manner by the prisoner; and, Gentlemen, the Court will concur with me in this rule of law, that the possession of papers without a publication, however seditious their contents may be, however treasonable their tendency, does not amount to High Treason, for the mere possession of treasonable papers does not amount to an overt-act. God forbid it should! for, if that was the case, no man would be safe;—the false friend, the bribed servant, the suborned guest, every spy that came into a man's house, would have it in his power, by privately depositing a private paper, to bring his innocent intimate, master, or host to condign punishment.—Gentlemen, a very melancholy case once occurred in *England* which very fully illustrates this position. It is a case well known to the learned Judges of the Bench: and, indeed, I believe of general

notoriety. I mean the case of *Salmon, Geoghegan*, and other miscreants, who, in consequence of large rewards, offered by act of parliament, for the apprehension and conviction of foot-pad robbers, entered into a conspiracy to obtain rewards, by falsely accusing innocent young men. Gentlemen, they accomplished their diabolical scheme, by insinuating themselves into the confidence of unsuspecting and unwary youths, and then putting marked coin, or other articles into their pockets, by which they fabricated evidence to satisfy a Jury, convicted the dupes of their villainy, and pocketed the parliamentary remuneration of their wickedness. They were at last discovered, and justice cut asunder this gordian knot of treachery. They were indicted for murder, but the law could not reach their lives—they were indicted and convicted of conspiracy; they were set in the pillory, and the enraged populace pelted out the brains of two of them. Does *Lawler* appear a man incapable of such a villainous scheme? Is it improbable that he, with a hope of pardon and reward before him, possessing the confidence of the prisoner and having given information to the magistrate, contrived by some subtle stratagem to convey these papers to the possession of the prisoner, for the very purpose of using them afterwards in corroboration of his own testimony? Gentlemen, there is one circumstance that strengthens this position, it is this: you must recollect that *Lawler* swore his reason for getting among the *Defenders* was for the purpose of coming at what they were about; but will you believe that to be the fact? If mere curiosity was his motive, why did he not secede from the societies when he did become acquainted with the purposes of their association?—He must have had a motive, and that motive must have been to betray—he must have been sent in, or he went into the societies for that purpose. Gentlemen, you cannot for a moment suppose, that the wretch who has confessed he would at one time have thought it no offence to take off the head of his anointed Sovereign, could at any time feel compunction at murdering his Majesty's subjects. Gentlemen, when you come to examine the evidence of this man, enquire among yourselves whether he has in any material point contradicted himself. For it is an established rule, that if a witness contradict himself in any material part of his evidence, it discredits the whole; and so far has this wife
and

and salutary doctrine of evidence been carried, that *Lords Mansfield* extending the rule to civil causes, has on trials where one witness has given false testimony, tho' there were other witnesses of unimpeached characters examined to the same points with the prejudiced party, directed the Jury to reject the whole of the evidence, and find a verdict against the party producing such a witness. Mr. *Lawler's* character is fully before and in your possession; and permit me to ask you, has your knowledge of it raised a doubt in your mind? for if it has raised a doubt, you are bound by the imperative dictate of conscience, to acquit the prisoner. You are bound, I say, not to convict, unless his testimony be irresistible; and when you take into your consideration, that only one witness has been produced to the merits, I rest satisfied, that you will send this unhappy youth at the bar, home to his parents, where his errors may be corrected and his mind improved, and not by a verdict of guilty deprive him of his life, under the infliction of a judgment the most severe that the laws of this country, or perhaps of any other country, has adopted.—I here conclude. We will now call witnesses to shew you and the Court, that *Lawler* is a person of such infamous morals and holding such impious principles in point of religion, that he ought not to be credited on oath giving testimony in a Court of Justice—and then I rest satisfied, you will reject his evidence as being unworthy of credence, and give life and liberty to my client, by a verdict of not guilty.

SAMUEL GALLAN, *Sworn.*

Examined by Mr. LYSAGHT.

Lives at No. 2, *Crane-Lane*, is a grocer, has known *Lawler* for four or five years, and does not think him a man to be believed upon his oath.

Cross-examined by Mr. SOLICITOR GENERAL.

Witness was once a hair-dresser, and has a brother who has travelled to *New-York*, last *September*, since these people have been taken up; there were fourteen or fifteen of them in a reading society, for the information of themselves; no books were bought while witness was in the society; they all gave what books they had for the use of the society. His brother went to *New-York*, to follow

follow his trade, as an engraver, and has been talking of going there these three years. Witness never was in the *Philanthropic* society, but believes his brother was——witness expressed a concern for *Lawler*, when he heard he was taken up——did not hear of his being taken for a week after he was taken——witness pitied him, as being accused of *Defenderism*——expressed his sorrow and surprise at it, as he thought him incapable of such a crime; they used to read the papers of the day at the society—*Goldsmith's Animated Nature*, *Pope's Works*, *Chambers's Dictionary*, &c. thought *Lawler* an innocent lad; but from witness's knowledge of his religious principles, would not believe him on his oath——witness and *Lawler* were both *protestants*——does not know where the persons are who composed the club——believes *Burke* ran away——would not believe him either on account of his principles——never knew any of the *Philanthropic* society, but his brother, as he himself was not a member——never heard of *Strephon's* religion——never expressed his opinion, or wish for a reform. [The witness declined to answer, whether he had ever expressed any opinion upon government]——witness is about 24 years of age, and never went to any other reading society for instructions since he went to school.

NICHOLAS CLARE, Sworn.

Examined by Mr. M'NALLY.

Is a master taylor, lives at 39, *Townsend-street*, knows *Lawler* 16 months——would not believe him on his oath——witness belonged to a reading society with him, and one evening *Pain's Age of Reason* was spoke of——*Lawler* said he would go farther than *Paine*, for he denied any part of the *Trinity*.

Cross-examined by Mr. SAURIN.

Does not know who had him admitted, nor any of the persons there, but *Lawler* and *Gallan*——has heard that the taking up of the prisoners was the cause of *Gallan's* going off——witness's reason for not knowing more of the society, was, that he seldom went there——did not go above four times——never saw any of the persons accused of *High Treason*, until he saw them in Court——believes

believes he brought his brother into the society—was acquainted with one *Cox*—witness believes he brought him into the society—never knew that *Lawler* was called to account for any offence in a court of justice—witness quit the society on account of *Lawler's* conduct, and advised his brother to quit it.

JOHN CLARE, Sworn.

Examined by Mr. LYSAGHT.

Was a member of the society, knew *Lawler* and was acquainted with his general character,—would not believe him on account of his abandoned behaviour, and denying a future estate—would not take away the life of a fly upon his testimony.

Cross-examined by Mr. KELLS.

Is a taylor, was a member of the society six months—the greatest number he ever saw there was 24—*Gallan*, *Atkinson*, *Cox*, *Burke*, *Lawler*, witness's brother were among the number—it was intended for information—sometimes they had a law question—witness hoped to be a magistrate some time, and liked a law question—they had the news of the day also upon which they used to argue—*Burke* and *Lawler* were for the *Age of Reason* being introduced—witness is a married man, 36 years of age, never was at such a place till about 3 years ago—they were to have a *French master* to teach them *French*—*Lawler's* getting his hand cut in a riot, was the reason witness left the society—*Lawler* was an impious man—never heard why *Atkinson* went to *America*, except it was to better himself—nor why *Gallan* went—believes they went together last *September*—never heard that counsellor *Barrington* took *Atkinson*.

WILLIAM EBBS, Sworn.

Examined by Mr. M'NALLY,

Is a pewterer—has known *Lawler* some time—he and his wife lodged in witness's house—does not think he is a man to be believed upon his oath—he is a man of very irreligious principles—worked on *Sundays*, and did not go to any place of worship.

Cross-

Cross-examined by Mr. RUXTON.

Lawler lodged some time in witness's house, paid his rent, and was an industrious, regular man—did express a concern at hearing he was taken up, for he was an industrious man—his wife was much alarmed, and hid something in the dirt-hole—witness searched and found two bags of musket-balls—he also found a sledge—thought these must have been intended for some wicked purpose, and wished to get rid of him—these, coupled with the other circumstances, induce witness not to believe *Lawler*—never offered to go security for him, but said he was an honest man.

JOHN ROBINSON, *Sworn.*

Examined by Mr. LYSAGHT.

Lawler served part of his apprenticeship to the witness—was a bad boy—that is 12 years since, and witness could not take upon him now to say whether he was to be believed upon his oath.

CORNELIUS GAUTIER, one of the Jury, *Sworn.*

Examined by Mr. M'NALLY.

Was one of the Jury upon *Leary's* trial—does not recollect particularly what *Lawler* swore upon that trial.

SAMUEL TYNDALL, another of the Jury, *Sworn.*

Examined by Mr. LYSAGHT.

Was one of the Jury upon *Leary's* trial, recollects that *Lawler* then swore, that Mr. *Robinson* had beaten him, for which he ran away,—that was the only reason as he recollects—*Lawler* said, he was accused of stealing something from Mr. *Robinson*.

Mr. *Lysaght*. My Lords, and Gentlemen of the Jury.—It is my duty to place the best shield I can between the unfortunate youth at the bar, and an ignominious and untimely death, and if my conception of the law applicable to this case, be just, I feel a strong hope of being able to convince both the Court and the Jury, that the prisoner is guiltless of the crime with which he stands charged; I say emphatically, *with which*

which he stands charged; for should you, Gentlemen of the Jury, squander much credulity on the testimony that has been adduced, still, if you do not give entire credence to the evidence of *Lawler*, the prisoner, however incorrect, or, if you will criminal, if his crime falls short of High Treason, you are bound to acquit. The specific treasons charged against him are the compassing and imagining the death of the King, and adhering to the King's enemies. I shall not deny, that an adherence to the King's enemies is a substantive Treason, and may be also laid as an overt act, which it unquestionably is, of conspiring and imagining the death of the King; but I, with respect for the Court, insist on it, that the barely having in one's possession *without publication*, a paper containing favourable sentiments and wishes towards an enemy in a distant country, without any communication or correspondence whatsoever with the enemy; I say such a circumstance cannot, on any principle of law, of authority, or of precedent, that I know; I say such a circumstance cannot be swelled up to the enormity of High Treason.—I also contend for it, and I am supported by *HALE* and *FOSTER*, that a bare conspiracy to levy war for lawless purposes, short of deposing or dethroning the King, or in any degree endangering his sacred life, is not High Treason, nor an overt-act to manifest the compassing his death.

Having said so much on the law of treason, so far as it could be supposed to bear on the present case, I shall have but little to add to the observations which have been so forcibly urged by Mr. *M'Nally*, on the evidence of *Lawler*, contaminated and damned as his credit must be, from his avowed perjuries, intended assassinations and felonies; so totally divested, as he has been proved to be, of that sense of religion, without which no man can regard the sanction of an oath—it would, I am confident, be a waste of time to the Court to argue that his testimony must be thrown out of your consideration. What then is to affect the prisoner's life—is it the unpublished nonsense found on him?—Now, Gentlemen of the Jury, as to the declaration, the words of it are, I, *A. B.* “of my own good will and consent, do swear that I will be true to his Majesty King George the Third, whilst I live under the same government.”—Surely, Gentlemen

tlemen of the Jury, " while I live under his govern-
 ment," may have been understood by the youth at the
 bar, to have meant the duration of his own life—there is
 no inuendo laid in the indictment to eke out a criminal
 construction of this declaration; there is nothing neces-
 sarily to be inferred from it in law, in logic, or in reason,
 to charge the prisoner with treason, or even with sedition.
 —Gentlemen of the Jury, as to the catechism, I own
 I cannot say so much, but as it was never published by the
 prisoner, he might, as *Judge BLACKSTONE* says, " keep
 poison in his closet," so that he did not vend or disperse it.
 —This catechism may be considered as seditious; yet
 Courts and Juries should be cautious, how criminal in-
 terpretations should be given to words in themselves
 dubious. In *Fleta* it is laid down, that formerly in ap-
 peals for treason, the appellant was obliged to prove with
 the most critical accuracy and perspicuity, the words and
 writing imputed, their clear meaning and import, beyond
 doubt or question, and if he failed in doing so, the Ap-
 pealee was discharged and cleared of the imputed treason.
 —But, Gentlemen of the Jury, I hold in my hand *high*
authority to shew—authority not expressly stating, but by
 fair and almost necessary implication admitting, that even
 the administering unlawful oaths and engagements, is not
 considered to amount to High Treason.—*Defenders* now
 are what *White-boys* formerly were, and the act of the
 27 of the King, was needless and nugatory, if the crimes
 provided against by it amounted to treason; [here Mr.
Lysaght read extracts from the acts alluded to, to support
 his argument,]—and contended, that by this statute he
 was empowered to assert that the King, Lords and
 Commons of *Ireland* allowed impliedly, that the statute
 of Treasons could not legally operate against *Defenderism*.
 —But the prosecutions of the present day, though for
 the same offences, were to vary from the prosecutions
 heretofore carried on against *White-boys* and *Right-boys*,
 as they were then called, and *Defenders* as they are now
 called. Why? because a general alarm was spread through
 these kingdoms, and many good and wise men were in-
 fected with it.—How else account for the late prosecuti-
 ons in *England*, the result of which was the acquittal of
 all accused, and the ascertaining that one of the supposed
 traitors, *Horne Tooke*, was a gentleman of the soundest
 and most pure principles of unshaken patriotism and
 loyalty.

loyalty ! as was manifested by the evidence.—My Lords, I ask what precedent can be adduced to support the position, that the having a paper of *any kind* in one's possession without publication, can be High Treason ?

Hensley had sent forth his letter, it was intercepted, but it had gone from him with intent that it should reach the enemy.—Is there in the case before you, and on which give me leave to say posterity will comment, is there the shadow of evidence even from the infamous and solitary witness *Lawler*, that any communication or correspondence with the enemy was had or intended ?—must not the *intention* be guilty ?—Was *Rabelais* put to death for having—It is too solemn an occasion to throw out such allusions, if they be not *relevant*—was *Rabelais* put to death, even under a despotic government, for writing labels on phials full of brick dust, “poison for the King, “poison for the Queen, &c.”—No, because no treasonable intention could be proved against him.—And will the Court and Jury in this case say, without credible proof, that *Eliphismatis*, and such trash of enigmatical or rather nonsensical import—and certainly not credibly proved to be of treasonable import—is an overt-act of adhering to the King's enemies ?—*Where* are his enemies ? where I hope they ever shall be, *distant* ?—How did the prisoner *adhere* ?—Did he *correspond* with, did he *send intelligence* to ?—Does the very indictment charge that he adhered in any manner, except to use its language, *in case* the *French* should land.—I have heard of constructive Treasons—here are eventual, contingent Treasons—blundering accusation !—Gentlemen of the Jury, will you disgrace your country and yourselves ?—I hope not—I have for myself to lament, that I have been assigned as Counsel for the prisoner but this day, in the place of that able advocate, *Mr. Curran*, who could not attend ;—but I confide in the wisdom and integrity of the Court and Jury.—*Mr. Lysaght* concluded by conjuring the Court not to put too heavy a weapon into the hands of justice, by multiplying Treasons ; and to the Jury, to reflect on the infamy of *Lawler*, and the youth of the prisoner.—Do not, Gentlemen of the Jury, suffer your consciences to be biassed by interest or by prejudice, or your judgment to be shaken by alarm. Do not superstitiously imagine, that the poor youth at the bar is so unhallowed and full of guilt, that the safety of the state vessel requires that he should be thrown over and perish.

Mr. Prime Serjeant. My Lords, and Gentlemen of the Jury. It is with no small pain that I rise upon this occasion, to perform the disagreeable task which my duty requires. No man can feel more sincere compassion than I do for the unfortunate youth at the bar, and no man would feel more happy at his being able to establish his innocence to the satisfaction of the Jury. But, Gentlemen, justice imposes an indispensable duty upon me, and while I am ready, with the greatest candour, to allow the unhappy prisoner every advantage which the ingenuity of his counsel could suggest upon the facts adduced in evidence; yet, gentlemen, I must, in adverting to that evidence, be obliged to shew it in a very different light indeed, from that in which it has been exhibited by the prisoner's Counsel. Gentlemen, I shall be obliged to demonstrate to you, that the facts proved, do fully support the charge of High Treason, agreeably to the construction of the statutes of treasons, as laid down by the learned Gentleman who stated the case on the part of the Crown. Much has been said, Gentlemen, with respect to the testimony of *Lawler*; it has been violently arraigned by the prisoner's Counsel. But, Gentlemen, I must deny it is that species of evidence which it has been called; namely, the evidence of an *approver*, swearing to save his own life—for here, Gentlemen, no promise of reward ever appeared, or existed. *Lawler* had not been apprehended, he was not in custody, he was not ever charged with any crime; and he appears to have acted solely from motives of compunction. Gentlemen, suppose a man had been at one period of his life of abandoned or dissolute principles, was no room ever to be left for repentance, or amendment? If the witness had no scruples of conscience, by listening to which, he hoped to make some atonement to his country, for the mischief he was promoting, by stopping its current before it overwhelmed the country. If, Gentlemen, the witness were afraid merely of personal mischief, he might have withdrawn from the scene; he was at perfect liberty to do so. No person accused him, he was not even suspected, save by his accomplices; he could have fled to *America* or elsewhere, but his testimony has been perfectly consistent throughout the trial, as it has been during the former ones. What was his account? he told you he was appalled with horror at hearing the real intention of the *Defenders*, which he was unacquainted with before; he therefore determined

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to abandon them, and if possible, to prevent the completion of their diabolical purposes. He disclosed the matter to Mr. Cowan, who advised him to lodge informations, which he accordingly did; and it appears he did so voluntarily, without any apprehension of prosecution, or promise of reward. Gentlemen, the circumstance of being a *Defender*, is of itself a strong impeachment upon the moral character of a man. But will it be pretended that it altogether precludes his testimony, where he could have had no necessity for coming forward, no fear of punishment, no promise of reward, no apparent object, but what he told you himself, the prevention of public calamity and general mischief. If such testimony were rejected by the law, the secrets of conspirators never could be developed, particularly, where they had screened their intentions and designs from the prying eye of justice, by the most solemn engagements of privacy. Gentlemen, how are such offenders to be brought to punishment?—You cannot expect that men of respectable character could be acquainted with such schemes, or able to give evidence of them. The law only requires that the best evidence which the case admits of shall be given. *Lawler* was certainly a *particeps criminis* with the rest of the party, but when he came acquainted with the monstrous extent of their designs and the diabolical plans in agitation, he became appalled with horror, and only obeyed the dictate of his conscience in discovering the plot. Thus, Gentlemen, he has been made the providential instrument of frustrating this diabolical project, which if left undiscovered for a few weeks longer, would have prevented the possibility of a Jury sitting in that box this day, to discharge the most inestimable privilege of our happy constitution. But, Gentlemen, it has been said that the testimony of *Lawler* is unsupported—it is no such thing:—It has been consistent and circumstantial, as well now as upon the former trials. Gentlemen, his testimony is uncontradicted—not a single witness adduced to contradict any one fact stated to have passed at any of the various meetings, at different places and at different times. He has uniformly told the same story, except as to the design upon the CHANCELLOR, which was brought out upon the cross-examination, and in every point where the Magistrates and the Officers of Justice have been concerned, his testimony is fully corroborated down to the finding

finding of the same identical oath and catechism in the sob of the prisoner. The ingenuity of the prisoner's Counsel in the course of a very long cross examination, has not been able to warp the witness into the slightest prevarication, and no attempt has been made to prove the contrary of what he has related. He has given the prisoner ample opportunity of doing that, if it were in his power, by mentioning the places where they met—it has not been attempted. But, Gentlemen, it is said that *Lawler's* testimony was rejected and disbelieved by a former Jury.—That, Gentlemen, I cannot admit to be the fact; for it might be perfectly consistent for the very same Jury to acquit *Leary* upon the evidence given against him by *Lawler*, and to find the prisoner now at the bar guilty upon the evidence of the same witness. The Jury in the former case, might have had some doubt, as to the criminality of the man—it did not appear *positively*, that he was present when any oath was administered, and if the Jury had any scruples in their minds, so as not to be perfectly satisfied of his guilt, it was their duty to acquit. But, Gentlemen, what room is there for doubt in the present case?—The actual administration of the oath has been proved, and that very same oath has been found in the prisoner's possession.

Mr. *Prime Serjeant* then commented very fully upon the facts given in evidence, the treasonable nature of the oath, and the zealous activity of the prisoner—from which he inferred, that no doubt could remain of his guilt: But however, if, notwithstanding, they had any reasonable doubt, such as rational men could entertain, it would be their duty to acquit the prisoner.

Lord CLONMELL. Gentlemen of the Jury. If I felt the smallest difficulty upon the whole of the merits of this case, in proceeding to deliver my opinion upon it forthwith, I would adjourn the Court for a short time, or until the next day, in order to take time to consider of it; but, Gentlemen, I do not feel any such difficulty; such adjournments indeed, have taken place in another country, but it is a precedent which I must confess, I do not much approve; and in presiding upon criminal trials, I will never, so long as I am able to sit, and my brother Judges are able to assist me, I will not adjourn the Court, until the issue be finally disposed of. Gentlemen, the indictment which you are now
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to try is founded upon the statute of Edward the third—a statute which has been enjoyed by the happy Constitution of these realms for seven hundred years, and which, for one hundred years past it has not been necessary to call into execution in this kingdom. Gentlemen, it may be necessary to state to you, what the accusation is not, in order to disembarraß your minds from the representation of Counsel. This, Gentlemen, is not a charge of felony, under the *White-boy* act—it is not a charge for levying war to pull down enclosures—it is not a charge against the prisoner for having in his possession unpublished papers—it was not a charge for a tumultuous rising, or of merely assembling with *Defenders* to commit robbery or burglary—it is not a charge of merely taking, or administering illegal oaths—but, Gentlemen, it is an indictment of *High Treason*, founded in the statute of *Edward* the third, and it charges the prisoner with associating himself with divers *false traitors*, stiling themselves *Defenders*, and combining and conspiring with them to aid and assist the persons exercising the powers of government in *France*, at open war with the King, for the purpose of overturning, by *force*, the King's government in this country, in Church and State, thereby adhering to the King's enemies, and compassing and imagining the King's death. For, Gentlemen, it has been truly stated by the learned Officer of the Crown, who opened the case for the prosecution, that any adherence to the King's enemies at open war with his Majesty, for the purpose of aiding or assisting them against his Majesty, necessarily, in its obvious consequences involves the safety of the King's life and the existence of his government. Consequently, Gentlemen, he who is guilty of the one is, by necessary implication, guilty of the other. Therefore, Gentlemen, it is not necessary that there should be a direct attack upon the King's person, or an actual levy of troops to carry on rebellion, in order to support this indictment; for if a combination, or conspiracy for the purpose, existed amongst his Majesty's subjects; and if it can be established by overt acts committed by them, the charge will be thereby as fully substantiated as much as if the most malicious purpose of such a conspiracy had been perpetrated and completed. Gentlemen, the safety of the State and the Constitution itself, is inseparably connected with the safety of the King, who is the first Soldier and the first Magistrate of the State, and therefore
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the Law, wisely considering the importance of his invaluable life to the peace and existence of society, has guarded even the most distant approaches towards the safety of that life, with the most scrupulous caution; for, Gentlemen, this is the only instance in which the policy of our laws takes the intention of guilt, manifested by plain, unequivocal overt acts, as adequate to the completion of the crime, and inflicts the punishment accordingly for such criminal intention. Gentlemen, having thus stated the law arising upon the case, as far as it occurs to me to be necessary, I shall next proceed to consider the charges stated in this indictment, and the evidence which has been adduced in support of them.

[Here his Lordship stated the overt acts enumerated in the indictment, and then recapitulated, from his notes, the whole of the evidence.]

His Lordship afterwards stated it as his opinion, that all the circumstances separately and collectively considered, shewed that a connection with and adherence to the *French Convention*, was the unquestionable purpose of *Defenderism*, for the end of assisting the *French* in any invasion of this country, and overturning the government of it; and the guilt of these designs, if the Jury believed the testimony of *Lawler*, was clearly brought home to the prisoner at the bar. Gentlemen, the next object for your consideration will be the evidence of that witness. How does it appear?—Certainly, not as that of an approver, as has been represented by the Counsel; he stands upon very different grounds. An approver, Gentlemen, is a man, who, upon being apprehended and charged with a crime, was encouraged by the offer of a pardon, to disclose his crime and prosecute his accomplices. Gentlemen, is that the case of *Lawler*?—Certainly not. Was he apprehended upon a charge of any crime?—No. Was he offered a pardon?—No. Did he prosecute his accomplices out of a necessity to save his own life?—No. Was there any thing to prevent his escape from justice, if he chose it, without making any discovery?—No. Had he any malice to the prisoner,—Was there any dispute between them?—Nothing of the kind was attempted to be proved. The testimony of the witness throughout was clear, collected, and consistent, without any prevarication. It was circumstantially supported by the testimony of Alderman *James* and Mr. *Carleton*, and so far from being contradicted

dicted by the evidence examined, on the part of the prisoner, it was strengthened in several respects. So far as the evidence for the prisoner went, it exactly tallied and indented with the account given by *Lawler*, but what amounted to very strong presumptive proof, in support of *Lawler*, was, that notwithstanding the various meetings particularized by him at *Plunket-street*, at *Drury-lane*, at *Stoneybatter*, at *Cork-street*, not a single tittle of evidence appeared to shew that the prisoner was not at any of those meetings—nor did any of those persons stated to have been present at those meetings with the prisoner and *Lawler*, appear to contradict him. So that, Gentlemen, comparing the whole of *Lawler's* evidence with all the other evidence which appeared in the course of the trial, they indented with each other so closely, and consistently, without any thing to contradict them, that if you believe the evidence, you cannot hesitate to conclude that the indictment has been fully substantiated. Gentlemen, the counsel for the prisoner have endeavoured to excite your humanity, in favour of the prisoner's youth. Humanity, no doubt, is a commendable virtue; but, Gentlemen, the attribute of mercy belongs not to a Jury, when justice requires a verdict upon your oaths, according to the evidence. If the youth of a criminal were to warrant a Jury in finding a verdict against evidence, the most desperate conspirators against a state will have nothing more to do, than to engage the boys of a country in their plots, and if they be detected before the accomplishment of their purpose, the humanity of a Jury is to intervene, and to screen them from public justice. Gentlemen, there is an instance in the conduct of the great *Judge FOSTER*, who was stiled an humane Judge, worthy of your attention. A boy of only seven years old, was tried before that Judge, for murder. It appeared that the boy had been entrusted with the care of a child somewhat younger than himself, and upon a quarrel arising, he had killed the child; sensible of his crime, and apprehensive of detection and punishment, he concealed the body in a dung-hill. Some suspicions arising from the account he gave respecting the child, the boy was locked up in a room until he should tell the truth: at the end of two days, he acknowledged the murder, and discovered where he had hid the body. He was tried and his years were urged in his defence. He was certainly

tainly of very tender years; but the learned Judge observed, that his hiding the body, and his prevarication in the account he gave, all marked his sense of the wickedness of the crime.—The Jury convicted him—he was not indeed executed, but respited from time to time, until at length he died in prison.—Now, Gentlemen, if in the present case, you believe that the prisoner at the bar is so young or so silly, as not to understand what he was about in the proceedings charged and proved against him; or that he was cajoled or enticed to swear oaths, and administer them to others, and to attend meetings of *Defenders*, for the purpose of seizing arms to assist the *French*, and all this through mere simplicity, inadvertence, or ignorance of the guilt; there, to be sure, his youth would deserve consideration. But this it is scarcely possible to conceive. You must therefore, Gentlemen, throw all false and partial considerations out of your minds—you must arm your judgments with manly feelings, and if you have no doubt, such as rational men may entertain, you will do your duty like conscientious men, and find the prisoner guilty. But, if on the contrary, you should entertain such a reasonable doubt, it will be of course your duty to acquit him.—The verdict will be yours, not that of the Court; and upon your consciences it will rest.

Mr. *Justice* CHAMBERLAIN, and Mr. *Baron* GEORGE declined adding any observations to the Jury.

About two o'clock in the morning of the 23d, the Jury retired, and after deliberating for twenty minutes, brought in a verdict of GUILTY;—but recommended the prisoner as an object of mercy, on account of his youth.

The Court then adjourned to ten o'clock on *Wednesday* morning.

Wednesday

Wednesday, February 24.

Patrick Hart was this day put upon his trial, upon an indictment similar to that which is set forth in the case of *Thomas Kennedy*, and therefore it is thought unnecessary to state it particularly.

The following Jury were sworn, viz.

Nathaniel Trumbull, jun.	Francis Kirkpatrick,
William French,	Thomas Black,
William Lancake,	George Simpson,
Thomas White,	Matthew Nixon,
George Pillsworth,	J. Hawthorn Grier,
John Ferns,	John Thompson.

Note. In swearing the Jury, several challenges were taken on the part of the prisoner, for *want of freehold*. Some doubt was entertained, whether this was a good cause of challenge in the city of *Dublin*. The *Attorney General* declined making any point, or arguing the objection, and the Court directed the persons challenged to be sworn, to answer whether they had freeholds in the *City*, and such as answered in the negative, were not sworn upon the Jury.

Mr. SOLICITOR GENERAL. My Lords, and Gentlemen of the Jury, though called on at the instant to state this case, I will not make an idle affectation of being unprepared. Instead of forgetting at this time, so soon after the late trials on the same subject, I doubt, whether I ever shall forget the important facts which this trial, like the former, will produce. They are not novel to me, though they must again be explained to you—but conscious as I am of the extreme fatigue which your Lordships have already undergone, I shall endeavour to bring the case within as narrow a compass as possible. It is very likely, Gentlemen, that you may have heard a great deal before you came into the box; but I will caution you, not to suffer your minds to be influenced by any thing but what shall appear on the present trial in evidence upon the several charges in this very serious accusation against the prisoner. Gentlemen, the indictment is of considerable length. It has been deliberately and correctly read by the officer. Therefore, it is only necessary for me, in order to direct your attention, to state, that notwithstanding the

length of the charge and the difficulty that might apparently be attendant upon an investigation of an indictment of such long and complicated formation—the case may be simplified to two charges, which if proved, will bear upon the prisoner. Gentlemen, under that remarkable statute of 25 of Edward the Third, called the statute of Treason, which although it has been acted upon for many centuries in *England*, has not been brought into familiar notice in this country, till modern times ; I say under that statute of Edward the Third, we are now regulated, not only in framing the accusation in cases like the present, but we are directed in the course of evidence necessary to bring home guilt to the party accused under that statute, and by cases solemnly adjudged upon trials of a similar nature ; true it is Gentlemen, that the crime of which the prisoner stands charged, is peculiar in its nature, and different from other crimes known to the law, because under the statute which I have mentioned, the bare imagining, and intending of such crime as is alluded to, is the completion of the crime, if that *intent* be manifested by overt-acts laid in the indictment, and sufficiently established by evidence *within the statute*.—Gentlemen, it is unnecessary for me to labour the point to shew you, that in order to bring the person charged under one head of the Treason charged, namely, that of adhering to the King's enemies—that if the party accused can be shewn to have so far seconded the endeavour of the King's enemies, at open war with the King, in such a manner as to have invited them to invade the kingdom—to have associated with others, and enlisted men to raise an armed force, to second the invaders, when they should arrive—it is settled law, that such a case will not only go to establish the Treason of adhering to the King's enemies, but will in its consequences go to prove the other charge of compassing the King's death—because the enemies of the King, being invited to invade the kingdom with an armed force, and a force being raised here with a view of forwarding their purposes, to dethrone the King and overturn his government—that necessarily calls after it the death of the King, under whose auspices as head of the State, and as supreme executive magistrate, this constitution and government is preserved, and we possess and enjoy our liberties and existence. So much, I should hope, will be enough, as to the general heads of the accusation. But

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in order to establish those general heads of accusation, it has been necessary also to lay certain *overt-acts*—eight of which are set forth in the indictment, in order to bring home guilt to the prisoner at the bar. Of these overt-acts, Gentlemen, the one to which I shall direct your attention in the first instance, is that of associating with a body of men called *Defenders*—confederated together with an armed force to second the invasion of the *French*, at open war with the King; and in case they should invade this kingdom, to forward their attempts in overturning the established government of the country.—Another distinct overt-act is that of enlisting certain persons to promote that first purpose I have mentioned, and is a necessary corollary to it, by which leading primary intention, both are connected and combined for the purpose stated in the indictment.—Another overt-act to which I shall direct your attention, is that of administering an oath, which oath, together with a catechism (for I take them together as one instrument) upon the face of them, demonstrably shew, that the other purposes and overt-acts, which I alluded to, will rest not merely upon parol testimony, but will be established by written and irrefragable proof, so as to give demonstrable certainty of the great feature of the case, the decided existence of a foul horrible Treason, which is the subject matter of your enquiry.—Gentlemen, it will establish this fact beyond controversy, in the first instance, namely, that the Treason did exist; and secondly, that the prisoner participated, and was an active sharer in the guilt. You are aware, Gentlemen, that in taking this line, I am shortening the course of your investigation, in order that your attention may be compressed as much as possible to this point, to which the evidence is immediately applicable. I come now, Gentlemen, to another part of the case, and that which falls more immediately within your province to investigate, and decide upon—I mean the nature of the evidence which will be brought forward to establish the guilt of the prisoner at the bar.—Gentlemen, it will appear to you, that this insatuated and deluded man, and if I am rightly instructed, that unfortunately wicked person at the bar, had his mind so heated, so perverted, so contaminated by the treasonable pursuits in which he was engaged, that he had confederated himself with that body of men called *Defenders*, who have infested this country for four or five years

years past, under that particular denomination which has brought shame and disgrace upon this kingdom—so that nothing but the wholesome administration of justice, can induce any man to reside here, or ever make you worthy again to invite strangers to hold commercial connexion with you, by giving stability to your credit or security for the enjoyment of the sweets of honest industry.—I understand the prisoner at the bar is nearly connected with people of business in this metropolis, and has been bred up to the trade of a skinner. It will be proved that within this, your metropolis, there have existed within this short time past, a number of societies, all co-operative to one abominable mischief:—who, through their different gradations of guilt, at last concentrated the carrying into execution their wicked and traitorous intentions in that body of men called *Defenders*, of whom the prisoner was one—not a passive member, submitting to the directions of others; but taking that leading, decisive and commanding part which belongs to a *Committee-man*, and a leader in their discipline and counsels—an office which he held under the treasonable sanction of his engagements, formed upon the systematic plan of these societies, confederated for purposes the most horrid, and most formidable to the safety of the community. It will appear that this body of men, under the combined efforts of the malignant intervention of foreign missionaries—of domestic disaffected men—of the industrious assiduity of persons engaged for some years past in attempts to overturn the state, and to bring destruction upon those men who wish well to the good order and law of the country.—This unfortunate man at the bar having embarked in the guilty purposes, and heated and inflamed with all the abominable mischief growing out of the circumstances I have mentioned, exerted himself with such activity, as to be entitled to that denomination I have stated, that of a *committee-man*. It will appear that these persons called *Defenders*, of whose confederation you will have decisive evidence from the oath and the catechism, could have nothing else in view than the object of embodying with *France*, and to deluge the country with blood and confusion—The oath and the catechism specially prove it—The association met at several places, they enlisted men under the perverted sanction of a sacred oath—appealing to God, and binding themselves by an engagement, they laboured most assiduously

assiduously to encrease their numbers—they met in several places—they had their assemblies, their laws, their courts-martial, and their committee-men—subscriptions of money—arms provided by plunder—and by those means endeavouring to carry into effect their guilty purposes, so as not to leave the possibility of a doubt upon your minds as to the general intent. The prisoner *Hart*, appears to have had more than a common share, even as a leader and *committee-man*. The witness who will be brought forward to support this charge, has been already examined in the course of several trials. The same witness upon whose testimony the case will principally turn, will be now brought forward, and will prove the numerous meetings at which *Hart* attended—that he appeared at the head of some of them as an authoritative person, announcing to the whole body, what the guilty purpose was. At some meetings powder and ammunition were provided—*Hart* will appear to have been an active man in swearing individuals, one of whom was reluctant, until he heard the purpose of the engagement. The meeting at which that transaction took place was at *Stoneybatter*, and there a person was brought in to be sworn—*Hart* was presiding as a *Committee-man*. He told the novitiate that the object of engagement was to aid the French when they would land, and for that purpose they were to plunder the country of arms to be prepared for their arrival—you are, said *Hart*, to obey all the mandates of the *Committee*, and to be confederated with us upon oath—which oath he accordingly administered. Gentlemen, at that very meeting at *Stoneybatter*, an engagement was entered into, upon a difficulty appearing whether they were sufficiently armed to go out and plunder. “You must go back,” said he, “and fetch your arms.” Then a delay took place, some did not return, and it appearing there was not a sufficient number attending, *Hart* called upon those who were in the room, and desired them to lay their hands upon the table, and swear by their solemn engagement to attend the next night, to be fully armed for the purpose of plundering the houses of the peaceable inhabitants in the confines of *Dublin*. It has appeared, that upon that very night when the confederation was entered into, a robbery was committed at a neighbouring house, which was plundered of arms, and those arms were found in the possession of *Hart*, when he was taken up. Those arms were plundered for the purpose

purpose of assisting the *French*, when they should land. Gentlemen, there is another alarming circumstance, which will come out in proof, and therefore I state it, tho' I wish to be relieved from the pain of it. It is so horrible in its nature, that we do not wish to impute it to the body of the Catholick persuasion; but there have been men abandoned enough to inflame and exasperate religious prejudices and that wicked principle is imputable to the prisoner, who out of his own mouth must be judged. It will appear, Gentlemen, that at one meeting of *Defenders*, associated for the serious purpose of enlisting, embodying, and becoming formidable by military array, a conversation arose, in which the witness wanted to know all the purposes of the association, which *Hart*, as a confidential *Committee-man*, avowed himself entrusted with—upon that occasion *Hart* told the witness, “*Our intention is to get arms from those who have them, and after we are thoroughly prepared, to massacre and put to death the Protestants of the country*”——Here he avowed the horrid scheme. Gentlemen, I have thought much upon this subject, and I cannot bring my mind to suppose, that so atrocious a malignity could exist in the minds of any body of men, as a deliberate purpose of murdering their Protestant bretheren, and at this time, when we are receiving with open arms, by every act of kindness and participation of benefit, the whole of our Roman Catholick fellow christians; yet, some there are, who would make religious enthusiasm an excuse for the foulest crimes, with that horrid malignity with which *Hart's* mind was inflamed and was full. Much industry has been used to persuade the bigotted and uninformed Roman Catholick that his situation is such as calls for outrage as justifiable, because that he cannot accomplish abolition of tythes and reform in Parliament; but there is no sensible Roman Catholick that must not be convinced that he is in the full enjoyment of every blessing which the Constitution can give; and that it is high time to teach the conspirators against that Constitution, that every honest man of every religious persuasion, joins to suppress that spirit of delinquency and outrage. Gentlemen, I shall now state the papers very shortly, which were found on the prisoner, and which speak trumpet tongued to your understandings. The evidence, if established, is in its nature, not fallible; it consists of written documents, found in the possession of the prisoner, and are not subject to those objections

jections imputable to evidence of another kind, where the fallibility of memory could deceive.

One of the papers begins in these words, " I do swear
 " that I will be true and faithful to the present United
 " States of *F.* and *I.* and every other kingdom now in
 " Christianity, as far as in my power lies, without hurt-
 " ing my soul or body, as long as they prove so to me."
 Then it goes on, " And more I do swear, that I will be
 " true to my committee and brothers, that is to say, in
 " supporting the right and privileges of the *United States*
 " of the kingdom, now in brotherhood."——" More,
 " I swear, that I will not come as an evidence against any
 " of my brothers, in any cause whatsoever, *except on a*
 " *Court Martial*, held by our Committees on pain of
 " exclusion, or death whichsoever is deserving."——
 The dreadful tendency of those engagements will be mat-
 ter for your consideration. These papers were found in
 the prisoner's box—in another box was found a blunder-
 buss, and several rounds of ball cartridge, so that he ap-
 pears to have had arms in one box, dangerous papers in
 another, and treason in his heart. Gentlemen, you will
 consider the whole of this case, and if there be a hinge left
 to hang a doubt on, I join in the recommendation to ac-
 quit the prisoner. If you find *Lawler*, the witness,
 trip or equivocate in any one point or circumstance, you
 should never find the party accused guilty. But, Gentle-
 men, if you find the witness perfectly consistent, and if
 the learned counsel, whose duty it may be to cross-examine
 him, cannot, under all the advantages of former disquali-
 fication involve him in inconsistency, and if he shall be sup-
 ported, as I am bold to say he will be, by a train of corro-
 borating facts which could not exist were not the princi-
 pal charges well founded, it then only remains for you to
 perform that duty which your country has a right to de-
 mand at your hands, and I trust that no consideration will
 warp you from the important obligation which you are
 bound by your oaths and on your consciences to discharge.

WILLIAM LAWLER, *Sworn,*
Examined by Mr. KELLs.

Note. The general tenor of the witness's testimony
 being the same as upon the former cases, it is omitted
 to avoid repetition. The additional matter was the
 private

private conversation with *Hart*, the prisoner, which was inadmissible evidence, as against the former prisoners.

He said, he met the prisoner at *Nowlan's*, in *Drury-lane*—it was on *Sunday* the 23d of *August*, after the meeting at *Stoneybatter*—it was a society of *Defenders*—there were more than twelve at the meeting—it was about seven in the evening. The prisoner asked witness if *Coffey* and *Dry* were not Protestants—witness answered, he believed they were—the prisoner said he would not sit in company with them—the reason the prisoner asked him was because he was acquainted with them both.—The prisoner asked witness what religion he was of?—witness answered he was a *Roman*—the reason he said so was, because *Brady* told him when he went to be sworn, to say he was a *Roman*, for that they had an objection to admit *Protestants*;—Witness asked the prisoner his reason for asking the question so many times—prisoner said because he would not sit in company with a *Protestant*.—That the night before, the *Defenders* were to have risen, but on account of the harvest not being got in, it was deferred; for if the harvest should be destroyed, they would be starved, but as soon as it was got in, they would rise upon the *Protestants*, and put them to death, and that the forts would be attacked at the same time—he meant by the forts, the different garrisons in *Ireland*.—The prisoner said he would call a committee of twelve men, and that *Lockington* should be made a prisoner, and they would then consult what death they would put him to, for having brought *Protestants* among them—the prisoner was then called to order by *Coffey*, who was in the chair—*Coffey* wanted to know what number of *Defenders* there were in *Dublin*, that they might be officered;—the reason the prisoner and the witness were called to order, was because they were from the table, and at the window—witness met the prisoner on the following day in the *Liberty*; there was a young man with him, who the prisoner said was a *Defender*—he shook hands with the witness and pressed witness's hand with his thumb, which was a sign that he was a *Defender*;—the prisoner asked witness if he had any ball at home, or if he knew how to make ball cartridges; told him he did, and that he had ball at home—prisoner gave witness some gun-powder, about half a pound, and desired him to make cartridges, and let him have them in
the

the evening—Witness asked the prisoner if there were 400 *Defenders* in *Dublin*—he said there were 4000 if they were got together—they then separated, and witness went to *Dry's* in *Cork-street*.

The oath and catechism found upon *Kennedy* were read, after which the witness said, he wished to mention something to the Court. One of the witnesses, said he, who appeared on the last trial, was the man who lent me the case of pistols when I went to the Watch-house, and when I went to *Stoneybatter*.

Q. *By the Court.* What is the name of that man?

A. *Gallan*, of *Crane-lane*. He lent me a pistol when I went to *Stoneybatter*.

Q. Who has that pistol now?

A. It can be got by sending for it.

Whereupon the pistol was sent for.

Cross-examined by Mr. LYSAGHT.

Witness saw another person who came to discredit his testimony, who did not lend him a pistol—could not say any thing of the man—his wife told him he was the person who melted down the bullets—could not say Mr. *Robinson* was a good man—he used witness more like a servant than any thing else—was not taken by him through charity—last saw his father in *England*, his father was not a member of any of the *Corresponding Societies*—witness had been frequently in company with the prisoner. It was said at *Hoy's-court*, when they should rise, that the first persons they should put to death would be *Jackson's* Jury. There was a society met at witness's room, and at *Gallan's*—*Strephon* and witness were the principals who induced them to go there—never said there was no God—*Burke* wanted the members to believe there was no Saviour—never heard that the society dissolved in consequence of witness's blasphemous expressions, for he never made use of any. When the petition of the *London Corresponding Society* was refused, some of them said, they ought to go to the Throne with arms, and have what they wanted. One *Baxter* in *London*, asked witness if he had room for 100 arms, and if he would meet some of the members at *Turnstyle*, *Holborn*, and learn his exercise, as the *Sheffield* members did. Witness administered oaths to some people, but they were not little children—some of them were

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apprentices

apprentices—could not say how old the little boy was that he swore in *Castle-street*—was more than ten years of age—if he were produced, he might guess—did not know his name—the youngest he ever swore was 17 years of age—it was a rule not to admit any members under 18—there was one *James Steward*, who used to carry about the books—never swore a boy with a pistol to his breast—was asked before about it, but it was not true—witness did venture to deny it upon a former trial—heard the *Telegraphic* and *Philanthropic Societies* consisted of 100—could not tell how many *Protestants*—there were *Protestants* and *Romans* in the *Philanthropic Society*—witness used frequently to work on *Sunday*—did not attend church, when he thought it no crime to kill the King—did not go to church at the time the pistol was fired into the Watch-house—there was an intention of liberating the recruits in a Crimping-house at the corner of *Bull-alley*—did not know how much bounty he got, when he enlisted—witness's brother changed his name to *John Wright*—is now in *Chester*—witness liked the prisoner as a *Defender* when he belonged to them, never declared, since he was taken up, that he would rather hang the prisoner than any of them. The members of the *Philanthropic Society* were divided into four divisions, and there were thirty-five in each division—did not believe the prisoner was a member of the *Philanthropic Society*.

ALDERMAN JAMES, *sworn*.

Examined by Mr. PRIME SERJEANT.

Granted a warrant against the prisoner, to Mr. *Philip Henry Godfrey*, grounded upon informations from *Lawler* who gave a description of the different persons and where they would be found.

Cross-examined by Mr. M'NALLY.

Took *Lawler's* examinations on the 27th of *August*. *Atkinson* was arrested upon the 24th—witness went to the *Liberty*, where he saw near 3000 people, who dispersed upon seeing him and the army. Had information there was an intention to attack the *Castle* and the *Bank*—had information from *Lawler* and other persons—did not take the information of those other persons upon oath, because they did not wish to have their names made

made public—their information agreed with that given by *Lawler*—*Lawler* did not say, he was one of the party to attack the CHANCELLOR.

PHILIP HENRY GODFREY, *Sworn*.

Examined by Mr. WORTHINGTON.

Received a warrant from Alderman *James*, to apprehend the prisoner and several others, and accordingly went to the house where the prisoner lived—broke open the street door with a sledge, went up stairs, found the prisoner and another boy in bed—took a paper, or parchment out of the prisoner's breeches pocket—knew they were his breeches, from his having told the witness so—they were not the breeches which the prisoner put on—found some parchment and papers in a box in the room—a broken blunderbuss, and about 20 rounds of ball cartridge—witness did not inquire whose the box was—nor did he know.

Cross-examined by Mr. LYSAGHT.

Did not know of any threat, or promise held out to the prisoner—witness did not hold out any—would not answer for what the persons about the prisoner might have done.—On the way to *Newgate*, the prisoner told the witness, that the breeches were his—he also said he was a sworn *Defender*, but was sworn by compulsion, and had the parchment forced upon him—witness did not know, nor could he form a belief, whether *Lawler* visited the prisoner at the house where he lived.

Here the parchment found in the breeches pocket was read, and was as follows :

“ I, *A. B.* do in presence of God, swear of my own free will and accord, that I will be true to the present United States of *F*— and *I*— and every other kingdom now in christianity, as far as in my power lies without hurting my soul or body, as long as they prove so to me ; and more I do swear, that I will not go with any robber or thief, or any person that is suspected to defame our society in any character whatsoever, or keep such people company, if to my knowledge I know it ; and more I do swear, that I will be true to my committee

mittee and brothers, that is to say, in supporting the rights and privileges of the *united states of the kingdom now in brotherhood*, or may be hereafter, and that I will not wrong any of my brothers, to the value of 2d sterling, to my knowledge : and more I do swear, that I will not come as an evidence against any of my brothers in any cause whatsoever, except on a court-martial held by our committees, on pain of exclusion or death, whichsoever is deserving, and more I do swear, that I will not strike or ill use a brother in any respect ; and that if I see a brother struck or ill used, I will aid and assist him as far as in my power lies, if in a just cause, if to my knowledge he is a brother ; and all brothers is to live lovingly and friendly together, and to have no quarrels or disputes whatsoever, and he that does, is to be excluded as long as the committee thinks proper, and to avoid such things, you are not to play at any sort of gaming with any of your brothers for more than six pence sterling at one time : and more I do swear, that I will help to support a lawful well inclined brother in all distresses whatsoever as far as in my power lies, without hurting myself or my family, and that I will meet when and where my committee thinks proper, and spend what is agreeable to my committee and company, and that monthly or as the committee thinks proper, and this article is according to the united states of the kingdom."

Signed by order, or
head Committee of

of the
F. & I.

Mr. *McNally* objected to the reading of the papers found in the box ; they were not proved to be the prisoner's hand-writing, nor was the box proved to be his property.

The COURT said the papers found in the box could not be read.

OLIVER CARLTON, Esq. *Sworn.*

Examined by Mr. RUXTON.

This witness repeated the testimony he had given in the former cases.

Evidence for the Crown closed.

Mr.

Mr. *Lysaght*. My Lords, and Gentlemen of the Jury, I have been very *suddenly* called on to-day (as I was also on the last trial) to defend the unfortunate prisoner at the bar; the very able and eloquent advocate, who had been assigned one of his counsel, having been prevented by avocations elsewhere, I presume, or some other justifiable reasons from attending. And I feel this disadvantage the more strongly, in as much as the facts charged against the prisoner at the bar, are of a very different nature from the facts charged against those for whom I had been originally assigned counsel. I likewise feel much discouragement in my own mind, and am diffident of its executions from reflecting that I have the misfortune to differ in some degree from the Bench, in my conception, both of the nature of the evidence, and the law, applicable to the facts which were thought to have appeared on the last trial—the trial of *Kennedy*.

I feel all due respect for the Bench, and trust it is not inconsistent with *that sentiment* to say, that their Lordships are to fulfil a very important and *awful* duty; they are to decide the law and to be adjudged by the present generation, and by posterity for such decision, on cases of *singular nicety* and *acknowledged novelty*. As to matters of fact, you Gentlemen of the Jury, are to be assisted and advised, but by no means governed or controled by their Lordships—the Court which I have the honor to address, will tell you that by our happy constitution, you are to determine matters of fact, as they are to determine points of law resulting from, or arising out of the evidence; therefore should any judge on any trial, labour hard for hours, and argue strenuously to make strong impressions on your minds, analyze, sift, doubt, question and consider fully such argumenative charge—and should you feel a different persuasion from that sought to be stamped on you—away with all false delicacy and culpable veneration for the Bench. Judge for yourselves—prefer your own judgments—assert and vindicate, and maintain the undoubted rights of Juries. In this respect, I mean the authority and *supremacy* (if I may use the expression) of Juries, the wisdom of the law is manifest. Judges of the land are enveloped in abstract studies; their minds pure and lofty, are filled with lucubrations of twenty years, and incessant contemplations on the book of science.—You, gentlemen, are conversant

sant with the transactions of *ordinary* life, and have daily opportunities of reading every diversified page of human disposition, habit, and character ; and are, (I say it with great respect to the Court) more competent than a Jury composed of the twelve judges could be, to try matters of *vulgar incident* and *groveling fact*.

Gentlemen, having said thus much, I shall concisely and strictly consider the facts which have appeared in any thing like *credible* proof this day against the prisoner at the bar—the SOLICITOR-GENERAL, who stated the case for the Crown with great candour—has told you that the evidence on which only you should convict the prisoner, ought to be such as could leave not a hinge to hang a doubt on—the expression does him honour—meet that idea gentlemen, and even enlarge by your commentary on it, and add, that the doubt should be a reasonable one,—such as a rational mind should give reception to.—Go thus far and regulate your decision by that criterion, and I trust, that I need ask no more, I trust, that I shall fill a reasonable mind with rational doubt as to the prisoner's guilt. I shall not arrogate more to my humble talents, a more eloquent advocate could illustrate his innocence. My Lords, and Gentlemen of the Jury, the unfortunate child at the bar, is indicted for two species of high treason, for compassing and imagining the death of the King, and for adhering to the King's enemies :—all of any thing like *credible* evidence to support the indictment, is a paper said to be found in the prisoner's room, importing that the person reciting it, is to be true to the united states of *F. and I.*—*F. and I.* are stated by counsel to mean *France and Ireland*. The evidence, which I shall beg leave to call utterly incredible, is the testimony of *Lawler*. Now, gentlemen, in my humble apprehension, the barely having in one's possession, without publication, such a paper as that found in the prisoner's room, is not an overt-act of adhering to the King's enemies, the paper contains no intelligence, there has been no attempt at proving any intended correspondence or communication with the enemy. *Where* do the prosecutors look for *treason* in this case, they are driven to explore the foulest place, the *breast* of an *infamous witness*—exclusive of the testimony of *Lawler*, nothing has appeared to fix treason or felony under the White-boy acts, or defenderism, or even sedition upon the prisoner. The SOLICITOR-GENERAL, in stating, that

that the prisoner declared to *Lawler*, that his wish and design was to massacre *all the Protestants*; said it shewed such malignity, that he could not believe it existed in the minds of *many* men of this country. Merciful God, is such a witness as *Lawler* to be credited when he imputes such a sanguinary disposition to *any* person, to a boy of tender years! no gentlemen! Youth is not the season when that depravity seizes the heart. The poor prisoner must have been a fiend from his birth if he harboured such a thought. He must have been suckled by a Tigress or Hyena, and have served his apprenticeship among the canibals in the human butcher's stall? No gentlemen! the wretch who perjured himself for the paltry bounty-money given to recruits, is more likely to invent a falsehood under the influence of sanguine expectation of great reward, than a young boy of reputable connexions and good education, is to form the horrid scheme of murdering *all the Protestants*—*Lawler* told you the prisoner said he quitted one club because there were Protestants in it, yet he swears the same Protestant-hater got into another club, in which there were more members Protestants, than in the former club. *Lawler* confessed that he fired a loaded pistol into a watch-house full of watchmen, and that he thought it no crime to murder his King.—Is it not likely therefore, Gentlemen, that this nefarious wretch, stained with perjuries, felonies, and treasons—insatiate of blood like the *Renault* of the Poet and the *Robespierre* of inhuman memory—is it not likely, I say, that the caitiff who would murder his King in the speculation of power, would invent the horrid tale of intended massacre, to facilitate the murder of a subject in the speculation and chance of reward. His *consistency* has been mentioned—yes, he is *very consistent*; for the printed trials of *Weldon* and *Leary* were probably in his hand 'till he came into Court—in his perjuries and execrable treachery he is *consistent*—*Weldon* is to die, by the evidence which a Jury disregarded, though it *was thus consistent* on the trial of *Leary*.—*Kennedy* has been convicted by another Jury, who with great respect for them, I say it, possibly did not reflect that a witness of veracity might not be so minute in the detail, so circumstantial and *consistent*—in his insatiable thirst for blood he is *consistent*—I know not what measure of it will glut him, if you do not act with cau-

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tion and mercy—*Titus Oates* was not less *consistent*—numbers of false witnesses have been as *consistent*—deluded Juries and Judges have been abused by their *apparent consistency*, and numbers of innocent men have fallen victims to it.

Gentlemen, you are not, I hope, to be misled by any description of the distracted state of the country, to give an unwarrantable, precipitate verdict of Guilty, on a charge of High Treason. If there be *Defenders*, there are statutes in force against them amply sufficient to curb such offences, and the punishment in many case of *Defenderism* is death.—Will you libel the nation by magnifying outrage, riot, or felony into Treason?—Do not preclude the reformation of the lower classes, by infusing into their minds a distaste for our invaluable constitution, which they indubitably will feel if the administration of justice be not pure temperate and just.

I shall call witnesses of unimpeachable character to shew that *Lawler* deserves no credit on his oath in a Court of Justice. He has not particularized dates; we therefore cannot produce witnesses to prove an *alibi*—consider Gentlemen, the avowed infamy of the witness, and the extreme youth of the prisoner—in the case of *William Yorke* adverted to on another trial, the murder spoke for itself and established criminality with a crying fact—but the crime imputed to the prisoner is a crime of intention, the proof of it resting on the testimony of an *infidel felon*.—Gentlemen, I have done, remember that the God who gave these favourite kingdoms so blest a constitution, delights not in human sacrifices.

WILLIAM ROCHFORD, Sworn.

Examined by Mr. M'NALLY.

Knows *Lawler* six or seven years—his brother served his time in the same house with the witness, and went by the name of *Wright*, before he went to *England*.—Witness never belonged to any club, or society.

Cross-examined.

Had been summoned to attend the Court—he attended in consequence of an indictment against him, at the
suit

suit of *John Giffard*, for publishing a print, entitled
 “ Kennelling of the Dog.”

NICHOLAS CLARE, *Sworn.*

Gave the same evidence as in the former case.

WILLIAM EBBS, *Sworn.*

Gave the same evidence as in former case.

Mr. *McNally*. My Lords, and Gentlemen of the Jury, it is not usual for counsel to have permission to address a Jury, on matter of evidence, or even to state a case in the defence of a man on the trial of his life for a capital crime; for so rigid is the ancient rule of the common law, that except on collateral points of law, the Court never assigned counsel. But the legislature, Gentlemen, has by a humane and indulgent statute in favour of the people relaxed that rigor, and has given to a prisoner, who is charged with the crime of High Treason, a privilege to demand the aid of counsel, who are in such cases assigned by the Court. It is by the authority of that statute, Gentlemen, that I now have the honour of addressing you on the part of the prisoner at the bar. But, Gentlemen, I have to regret that the act to which I have alluded, has not in every particular and provision followed the wholesome *English* statute for regulating trials for High Treason, of which it is but merely a short abridgment; for if the *Irish* act had followed the *English* statute, I should not now have had any occasion to address you on the part of the unfortunate youth standing at the bar; for, by the *English* statute it is provided, that in all cases of High Treason, where corruption of blood is the consequence of a conviction, there can be no verdict of guilty, unless there be at least two witnesses produced by the Crown to support one overt-act of Treason, or one witness to one overt-act, and a second witness to another overt-act of the same species of Treason, so that in the present case, if the *English* statute had been fully adopted by the *Irish* legislature, the prisoner at the bar must be acquitted in point of law, as there is but one witness produced to support the overt-acts of Treason charged against him in the indictment. God forbid! Gentlemen of the Jury, that

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I, or any *Irish* lawyer should dare to insinuate that *English* statutes should have authority in *Ireland*, without the sanction of the *Irish* parliament. But principle is immutable; principle is the same in both countries, and I trust I have a right to tell you, that in considering your verdict this day, it will be your duty to apply the principle of *English* jurisprudence to the present case. A great and a learned writer has laid down the principle, that makes two witnesses necessary in cases of High Treason. Gentlemen, I will give you his words: He says, "In cases of Treason, there is the accused's oath of allegiance to counterpoise the information of a single witness, and that may perhaps be one reason why the law requires a double testimony to convict him:" though, "the principal reason," continues the learned commentator, "undoubtedly is to secure the subject from being sacrificed to fictitious conspiracies which have been the engines of profligate and crafty politicians in all ages."—Gentlemen, I do not mean to apply the words "crafty politicians" in the same manner they are applied by the learned Judge, whose words I have just quoted. I do not mean to apply them to any of the persons carrying on the business of government in this country. No, Gentlemen, the "crafty politician," whom I intend to make the object of your serious consideration, as I am well convinced he is of your abhorrence, is Mr. *William Lawler*, the witness who has this day made his fourth appearance in this Court. Gentlemen, it is clear that *he* is the "crafty politician," who was well versed in acts of deceit before he left *England*. It was there he became tutored in vice, it was there he noviciated in the acts of hypocrisy and dissimulation, and from thence he returned into this, his native country, a corrupter of our unsuspecting and unwary youths. Like *Satan* who scaled the gardens of *Eden*, and having instilled the poisons of sin under the pretence of communicating knowledge into the ears of innocence, abandoned the deluded victims of his diabolical subtilty and deceit, to death and perdition. Gentlemen, as we have adopted the *English* constitution, we have a right to decide upon its principles. "In *England*, one witness, though immaculate as an angel, could not convict a person charged with High Treason, and will you, Gentlemen, establish by a verdict of guilty, that
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in *Ireland* the tainted breath of a fiend, which in *England* could not agitate a feather in the scale of justice, shall start and blast from the face of the earth one of God's creatures! It may be asked what could have been *Lawler's* motive? I answer, God, the searcher of hearts, can only know the motives of this devil, in first seducing his profelytes, and then betraying them to death.—He has said, repentance was his motive, but I rather conceive it arose from the impulse of fear. Gentlemen, his object for instituting societies however is plain.—The bank was one of his objects—so says Alderman *James*, could he have but persuaded those that he had seduced to have assisted him in plundering the bank, his object would have been fulfilled, and under another fictitious name he would have fled elsewhere to enjoy his plunder, and meditate on fresh enormities.

Gentlemen, permit me to trespass a little further on your indulgence—permit me to solicit your serious attention to Mr. *William Lawler*, the prosecutor, and to the prisoner. In the one you see an adept in wickedness, which could only result from a polluted heart and spotted soul. In the other you view a boy, who from his youth must appear to you a novice in politics and in offences—and if you should believe, that he has been misled and fallen into error, surely you will not visit the sins of the seducer upon the head of the seduced—I will venture to argue, Gentlemen, that from legal principle you ought not.—Gentlemen, you have heard the confession made by Mr. *Lawler* the witness, what confessions have you heard him make?—You have heard him confess to the commission of felonies, of conspiracies, and of perjuries. Now, Gentlemen, I maintain, that by the law of the land, if *Lawler* had been convicted of even *one* felony, one conspiracy, or one perjury, by producing the record of conviction of either of those crimes, the Court would be bound to prevent him from giving evidence on the ground of incompetency arising from infamy—and you would be bound to acquit the prisoner for want of evidence. Competency is a question of law, it is to be determined by the Court, but after the Court have determined upon the competency, and the witness is sworn, then arises the question of credit, and that question depends solely on the determination of the Jury—From these premises I draw conclusions, which I submit to
your

your deliberation. I submit that every Juror amongst you must from the perception of your own reason, consider *Lawler* in no other light than as a convict—you must from the evidence of your own senses, for you saw, and you heard him, consider him as convicted on his own confession, the strongest evidence the law knows, when applied against the party confessing, though the weakest and most suspicious when made use of against a second person. I say, that *Lawler*, on his own confession, stands a convict before you, of one felony in attempting to murder a watch-man, by discharging a loaded pistol into the watch-house—of one conspiracy to murder the *LORD CHANCELLOR*—and of one other to murder a witness who was to give evidence on the part of the Crown.—Perjuries are also recorded in the black schedule of his crimes, and of those you are also in possession by the strongest proof possible—his own confession.—If then, Gentlemen, you believe this witness guilty of those crimes which he has himself confessed, does he not stand before you as a convicted felon, and of course as infamous and as villainous as if he had been regularly tried and found guilty by any other Jury?—I repeat it, Gentlemen, if this miscreant had been convicted by another Jury, you Gentlemen of the Jury, could not this day have heard his testimony, the law would have arrested his evidence, for the Court could not legally, and therefore would not have submitted him to have undergone an examination; and I say, it follows of course, that if you are bound to hear his testimony, he not being an incompetent witness, yet you are also bound to reject his evidence, he not being worthy of credit; for the same principle that rules the Court on the question of competency, should from analogy and principle, rule the judgment of a Jury on the question of credit.

Gentlemen, three witnesses have been produced on the part of the prisoner, and they, from a knowledge of the general character of Mr. *Lawler* the witness, from a knowledge of his impiety and immorality, have positively deposed, that he is a man of so infamous a character, that he ought not to have credit on his oath, giving evidence in a court of justice. Gentlemen, an attempt has been made by the counsel for the crown, to impeach the testimony of those witnesses, it has been shewn on a cross-examination, that one of them was a member of the *Tele-*

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legraph society at a time when its purposes were merely confined to reading—but does that affect his credit? or if it did, are there not twelve other witnesses who do not belong to any society, well acquainted with his general character and infamy. Gentlemen, the twelve witnesses I speak of, are yourselves. Gentlemen, let me intreat of you when you retire from your box to deliberate on your verdict, to ask each other, whether this fellow is not of a most infamous character? whether you have not full evidence before you from out of his own mouth, of his infamy, and whether you, as jurors upon your oaths, with the internal knowledge of his guilt in your minds, can give evidence to the testimony of so abandoned, so infamous and so impious a wretch upon his oath?

Gentlemen, you have heard a great deal of the consistency of this witness. My learned friend Mr. *Lysaght*, has made several pointed and judicious animadversions on this subject, I shall therefore only trouble you with one or two more. From what cause does this consistency proceed? Is it the emanation of a cool, collected, ingenuous, and virtuous mind? No! an honest man in giving evidence to affect the life of his fellow creature, to affect the life of a boy, whom he had described as having been once his confidential friend, would evince compunction, and feeling, he would give his evidence with trembling and apprehension, he would not have shewn a promptitude to answer, an eagerness to explain and connect, arising from a pre-determined intention to convict. Gentlemen, the witness is well experienced and perfect in the part he has this day acted on the table. He has been examined on the different trials, these trials have been printed—he has read them with attention, he has studied his *vade mecum* of evidence, and now comes into Court fully instructed and prepared from his printed briefs. I will now shew you in what Mr. *Lawler* has not been consistent. He has suppressed and he has extended his evidence to answer his views. He has this day gone further before the Court, than he ventured to go when he gave his informations before Mr. Alderman *James*, he on that occasion, suppressed the intended assassination of the Lord CHANCELLOR, he suppressed the intended assassination of *Cockayne*, and would still, no doubt, have suppressed his knowledge of those diabolical conspiracies if I had not extorted a confession from him on his cross examination on a for-

a former trial. Gentlemen, his suppression of dates is most material, for except in one instance, this witness of extraordinary memory has recollected but one date. The intent of this cunning is manifest—had he sworn to dates the prisoner might have proved an *alibi*, that is, gentlemen, he might have shewn, that on the day sworn to by the witness, he, the prisoner, was in another place, but the witness by artfully omitting the day, has precluded the prisoner from defending himself from any charge depending on time or locality.

It is unnecessary for me, Gentlemen, to engage your time by entering at large into the law of the case, the Court will fully instruct you on that head, but the determination lies with yourselves, for I venture to say, that no lawyer will controvert the right of the Jury to determine on the law as well as on the fact in a criminal case; to take both together into their consideration, to determine upon both together, and to found their verdict on both is the established and indubitable right of a Jury. This leads me, Gentlemen, to take a slight view of the indictment, in doing which, I shall anticipate an observation that may be probably made this day, because it was made by the counsel for the Crown on a former occasion, and the case of Doctor *Hensley*, as convicted in *London* for high treason, was mentioned to support it.

Gentlemen, the indictment which you have heard read, and which you are to decide on, consists of two species of high treason. It first charges the prisoner with compassing the death of the King; and secondly, it charges him with adhering to the King's enemies. As to the first charge, I conceive it has not been supported. And as to the second, as I presume, the counsel for the Crown rely upon it, to it alone will I call your attention. The overt-acts in this species of treason to be found in the books, are these: giving intelligence to the enemy; selling them provisions; selling them arms, or surrendering to them a fortress. In every trial I have seen on this species of treason, there has been evidence of a connection, a reciprocity between the parties charged as traitors and the enemy, but you have not had a *scintilla* of evidence laid before you to shew the slightest communication between the prisoner, or between the persons denominated Defenders and the King's enemies, "the persons exercising the powers of government in *France*," nothing even like agencies has been given in evidence. In

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Florence Hensley's case, quoted by the Chief Justice on a former trial, there was actual evidence given of his correspondence with a minister of *France*. In *De la Motte's* case, it was proved, that through the medium of agency he communicated intelligence to the enemy, and in that case it was said, that the prisoner by entering into a conspiracy, to send intelligence to the *French*, was not guilty of high treason, but that the intelligence which was sent must be laid before the Court by legal evidence—Now, here the evidence goes no further than a bare conspiracy. In *Jackson's* case, recent in every man's memory, letters delivered at the Post-office, intended to be transmitted to foreign parts, containing a description of the situation of this country for the use of the enemy, were arrested in their progress in the Post-office. Gentlemen, have you any evidence similar to this in the case before you? No, in all the above cases the treason was consummate. In the case before you, the treason is inchoate. In the offence of compassing and imagining the King's death, wise and eminent lawyers have certainly held that evidence of the *intent* substantiated the crime, but no lawyer has as yet, ventured to advance, that an *intent* to adhere to the King's enemies substantiated the offence of high-treason, and gentlemen, I do insist, that should you believe every word *Lawler* has sworn, and the construction the King's counsel has put upon the papers produced, an *intent* to adhere, or a *conspiracy* to adhere, and no more, has been given in evidence. I will go further; I will venture to maintain, that the indictment does not charge a substantial treason. Gentlemen, attend to the overt-act. It charges that the prisoner, in order to enlist *William Lawler*, a liege subject of the King, to be aiding and assisting the persons exercising the powers of government in *France*, being enemies, in case they should invade, or cause to be invaded, this kingdom, administered or caused to be administered, an oath to said *Lawler*, and swore said *Lawler* to a certain profession, declaration, or catechism to the purport following, &c. Now, Gentlemen, this I say, goes no further than to shew an *intent* to commit treason, there is no positive adherence to the King's enemies shewn by this overt-act; no, the worst that is shewn is an intent of conspiring to assist them on the completion of an uncertain event, the event of their invading or causing to be invaded, this country,

country, an event which I trust in God, never will take place, or if such an attempt should be made, that it will be rendered abortive by the spirit of *Irishmen* and the discomfiture of the foe.

As to the papers, I am well aware, you will hear much on their meaning from the learned counsel who is to reply on the part of the crown, but whatever constructions he may put upon their contents, or whatever construction you may apply to them, it will be your duty to recollect, that they were permitted to be read, not as evidence connected immediately with the prisoner, but as evidence to shew an existing conspiracy, and the existence of a conspiracy is not of itself legal evidence of treason or of guilt against the prisoner; nor is there any evidence before you that he had any knowledge of these papers; they are not offered as being in his hand-writing, they are not offered as being found in his possession. But the parchment was found in a room wherein Mr. *Godfrey*, constable of police, swore the prisoner lay.—How is that accounted for? Mr. *Godfrey* told you he spoke to him on the subject, and that he had been sworn by compulsion. If you take what he said to *Godfrey* as a confession, you must take the whole of that confession, and in doing that, you must take such facts and circumstances as make for the prisoner as true. Gentlemen, it must be known to some of you, that persons of the first character in the country have been compelled to take the *Defender's* oath, at the risk of losing their lives if they refused, and therefore there can be nothing fanciful or ridiculous in my asserting that it is not impossible, but the prisoner was forced against his will to take an oath, and that at the same time the parchment produced, was put into his hand. You must have observed that Mr. *Lawler* is blessed with a most accommodating memory, he can extend or contract it at pleasure; with the most extraordinary tenacity he remembers every conversation he held with the prisoner, not forgetting a single interrogatory, or answer. I say, he has a recollection for all occasions to serve him when necessary, to revive, to come, to go at pleasure. He perfectly recollects swearing an infant, but he cannot remember either his age or name. He perfectly recollects administering an unlawful oath of secrecy to him, but he cannot remember, whether he administered the oath with a pistol

to the boy's breast. He cannot recollect whether this boy was ten or eleven years of age, but he could tell his age if he saw him, and then, forgetting this circumstance for the purpose of injuring the youth at the bar, he cunningly swears he never administered an oath to a man of less than seventeen years of age. Gentlemen, if I do not go fully into this case, it is not from want of zeal or attention to my client: this is the fourth time I have had occasion to address a Jury on the subject of Mr. *Lawler* and his enormities. The human mind becomes languid by repeatedly thinking on the same subject, and when the subject is like the present, the mind becomes disgusted. Indeed Gentlemen, I had forgot this is the first time I have had the honour of addressing you, and from an apprehension of wearying your patience, will probably leave unobserved, many material points. But, Gentlemen, I feel consolation, when I look to that bench, because I know the great and enlightened characters who preside there will not leave untouched an *iota* of evidence, that has appeared to them, favourable to the prisoner, but will address you in a mild and constitutional charge. Gentlemen, judges are the representatives of his Majesty, and in the discharge of their judicial duties, will follow that sacred obligation which his Majesty enters into with the people, when he assumes the reins of executive government, I allude to the coronation oath, by which the father of his people swears and undertakes to administer "justice in mercy." He is the fountain of mercy, and the mandate of his divine attribute should flow through the bosoms of every magistrate acting under his delegated authority.

The *Solicitor-General*, in a strain of candor which does that learned advocate much honour, urged an observation, that I trust is strongly impressive upon your minds, he told you emphatically, "If there be an hinge left by the witness to turn a doubt upon, you ought to acquit," and Gentlemen, the bench will lay down the same rule when they come to give their charge. They will tell you that no man ought to be convicted in an *Irish* Court of Justice on facts which are not indubitable. Where the witness is weak, there must be a doubt, and where there is a doubt there must be an acquittal: such Gentlemen, I say, is the merciful rule of the criminal law in this country, that though the conduct of a party accused, even of the most heinous offence, should not

appear perfectly innocent, yet he is entitled to a verdict of acquittal, for if there be a doubt on the minds of the Jury, this benign rule of clemency becomes imperative, and you will implicitly submit to its authority, for there is an old and wise maxim, better that ninety and nine guilty men should escape punishment than one innocent man suffer. Gentlemen, I shall here conclude, imploring you to take into your consideration, that though you should acquit the prisoner in error, and hereafter make the discovery, as that error will be founded on mercy, mercy originating with God, and constituting the benign prerogative of the Crown, the discovery will neither disturb your sleep, nor injure your waking moments, you will lie down in comfort, you will rise with cheerfulness, you will walk abroad in peace with placid consciences.—But, Gentlemen, should you convict in error, how would your hearts feel hereafter, how would your minds suffer from such a horrid discovery? Would not appalling fear shake every nerve, would not bitter remorse and repentance be the consequence when you heard the voice of an innocent victim in the language of the scripture, shrieking from the grave, “Oh earth cover not thou my blood?”

Gentlemen, one observation more. As to what has fallen from the counsel for the Crown. It has been asked, and the question conveys a strong conclusion should it go unanswered—it is asked who so likely to give information of treasons as a traitor?—I answer with another question—who so likely to swell minor offences into crimes of the first magnitude as the traitor, who with reward in view, insinuates himself into the confidence of others, for the purpose of making the betraying of their secrets, or the invention of chimerical conspiracies, the means of ensuring that reward? Gentlemen, such a wretch as *Lawler*.

Mr. *Saurin*. My Lords, and Gentlemen of Jury—This in truth is so plain a case, that it will be unnecessary for me to take up much of your time. Gentlemen, the prisoner at the bar stands indicted for High Treason, the indictment contains two species of that offence, namely, compassing the King's death, and adhering to the King's enemies. With respect to the first, you have been already told, that it need not occupy much of your attention, because if you shall be satisfied from the evidence you have

heard,

heard, that the prisoner adhered to the enemies of the King at open war with the King, that will support the second charge in the indictment, and will also be evidence of the first, that of compassing the King's death.

Mr. *Saurin* then observed upon the evidence, and contended that however criminal *Lawler* might appear, his testimony was so consistent and so corroborated by circumstances, which could not be controverted, that the inference of the prisoner's guilt became irresistible.—

[These points being fully observed upon by the Bench, will apologize for not giving Mr. *Saurin's* argument at length.]

Lord CLONMELL. Gentlemen of the Jury, *Patrick Hart*, the prisoner at the bar, stands charged with *High Treason* on two distinct species of Treason, ascertained by the statute 25 Edward III.—This is a statute which has not been passed in the heat of tumultuous times, or the ardour of irritated contention—it is a part of the constitution, which while it defends the prerogatives of the Crown, and protects the safety of the royal person, is a shelter to the liberties of the subject, by stating with clearness and with caution, what acts shall be considered *High Treason*; not leaving it to tyranny or caprice, to assume to itself, as in other countries, to deliver a distinct opinion on vague and uncertain charges, in order to lay the ground-work of the destruction of individuals, in consequence of the constitution not having been explicitly defined. The first species of Treason with which he is charged, is having compassed the King's death on the days and at the places set forth in the indictment.—It has been said at the bar, and the law is so, that whoever endeavours to destroy the monarchy by force, makes an attempt to take away the life of the Monarch—and one observation shall not be concealed from you, which is, that adhering to the King's enemies has never been doubted as an explicit manifestation of an intention to take away his life. To support this charge several overt-acts stated to have been committed by the prisoner indicative not solely of this treasonable intention, but also ascertaining the means by which it should be carried into execution, are laid in the indictment.—The same overt-acts are laid to support the second charge in the indictment, and to this second charge I shall particularly direct your

your attention ;—you have heard these acts read from the indictment by the clerk, and I shall also take notice of them :—the first is, that during an open and public war, of which common notoriety is sufficient evidence, carried on by the ruling powers of *France* and the King of these realms, the prisoner at the bar is charged first, that he as a foul traitor against his Majesty, King George the Third, &c.—[*Here his Lordship stated the several overt-acts.*]—Gentlemen, as part of this evidence adduced in support of this indictment is written and part of it oral, I shall first state the written evidence.—[*His Lordship then read the oath and the catechism.*]

These are two of the papers; you will see from your notes whether I state them correctly—these are the papers sworn to be the bond of *Defenders* in general, I shall offer some observations on these papers, in order to explain the matter as clearly as I can, which is all I desire, and which is all my duty calls on me to do ;—you are the constitutional Judges, and you alone are to decide upon them ; though a gentleman at the bar stated he differed from the Judges ; if the difference related to the situation of his client, I am not surprised at it, but on that situation I shall deliver no opinion—I have heard it said that Judges make very bad Jurors—to your consideration, I am happy to say, the cause is referred by law, the verdict must be yours and not mine.

Gentlemen, the first position for you to consider (for that we are at war with *France* is obvious,) is whether the society denominated *Defenders* did exist?—Next, whether the prisoner was a member of this society?—And whether he was guilty of all or of any of the overt-acts laid in the indictment.

I cannot pass these papers without observing upon them, it is for you to consider, whether this engagement is not to submit to a committee, and to pay obedience to its commands in contradistinction to the laws of the land ;—the association was formed so far back as the year 1790. The oath professes to be an oath of allegiance to the King, qualified with the expression “ *so long as I shall continue under his government,* ”—you are to decide whether the person who swore it, thought himself bound longer, and how far it is explained by the assertion of *Weldon*, that “ if the King’s head were to be taken off to-morrow, the obligation of this oath would be at an
“ end.”

"end."—You are to consider whether the "National Convention," means the Convention of *France*.—You are to consider what is intended, when the question is asked "with whom are you concerned?"—and the answer returned, "the National Convention," the words to "quell all nations and dethrone all Kings." You are to decide whether they manifest the intentions of the association.

Another part of the written evidence is the parchment sworn to have been found in the possession of the prisoner.—This parchment contains the following form of oath, "I, *A. B.* in the presence of God, do swear of my own "free will and accord,"—[His *Lordship* here stated the oath *verbatim*.]—You are to determine whether obedience to the laws means the laws of the land, and whether courts martial are such as are recognized by law?—Part of this oath throws a light on some of this mysterious system, and explains, in my mind, the purpose of the signs used by *Defenders*—for these signs must be understood that the members of this association may be able to discover themselves to each other.—You, Gentlemen, are to determine what *F.* and *I.* mean, and what interpretation reason must deduce from the substance of this parchment.

Having disposed of these parts of the evidence, which support the charge of adhering to the King's enemies, I will take up the first witness who appeared—I will read the evidence, you will not take it explicitly from me, but you will compare it with your own notes, and adopt it merely where it is conformable to them, and consistent with your own recollection. In stating it I shall meet with the assistance of my brothers, and if I am incorrect, I entreat you to set me right.

The first witness is *William Lawler*, he is a native of *Ireland*, &c.—[Here his *Lordship* read the testimony of the witness.]

He next saw the prisoner at *Stoneybatter* with a society of *Defenders*—*Hart* introduced a young man in order to swear him a *Defender*, he explained the principle of the society, and told him the intention of it was to assist the *French* when they should land. If you believe that the prisoner was at this meeting, that their designs were such as the witness described, and that prisoner swore this young man according to the forms of the society, it sup-
ports

ports a substantial count in the indictment, and you must find him guilty. It is proved that *Hart* pulled a book out of his pocket, that he laid a paper on it, that he administered the oath, that he shewed the signs and described the meaning of them. What these signs are you have seen, the witness learned the signs before from *Weldon*, when he swore him a *Defender*, and these were the same signs which *Hart* made use of on that occasion.—The witness swore—[*His Lordship proceeded to recapitulate the evidence.*]

Gentlemen, you have been desired to look at the prisoner at the bar, and to consider, whether from his youth, he were likely to commit the crime with which he stands charged. I also desire you should look at him, and as to the circumstance of youth, I shall read you a case from one of the most respectable authorities, which elucidates that maxim of our law, that youth shall not be admitted to excuse those acts, the commission of which is attended with a malicious discretion. From *Judge FOSTER's Report*, a man who has done honour to himself and the profession. I shall read you the case of *York*, who, at the age of 10 years was convicted of murder.

[Here his Lordship read the case, with the opinion of the judges, &c.]

The principle I lay down is this, that if you believe that boy was capable of judging of the conduct, which he is proved to have pursued; there is not a single act which is not tarnished with a malicious—a treasonable discretion. He knew he was to support the *French Convention*, in case they should cause this country to be invaded; he was entrusted with the flagitious importance of admitting *Defenders*, as a *committee-man*; he was sufficiently zealous in the cause, to prevail on the member of his society to bind themselves by oath to meet in arms on the night which he appointed. Every act of this kind is not the act of puerile indiscretion, but bespeaks the competency of a sensible mind, equal to the Treason with which he is charged. You are to consider also, whether these facts are not strongly in favour of his innocence, if you believe the testimony you have heard to be the consequence of a wicked and malevolent intention to take away his life. If you shall be of this opinion, you must acquit him. It is said, that Judges are very bad Jurors; you, Gentlemen, are the Judges

in these cases, entrusted and constituted by the laws of the country; I love to see the freedom of the country manifested in the discharge of every trust. It is the duty of the Court to be counsel for the prisoner, you are the Judges of the fact, and you know, I mention it in consequence of an assertion at the bar, whether or not the prisoner has had fair play. It is by fair and candid observation, that a client must be defended, and if you should be base enough to suffer your judgment to be swayed by the direction of the Court, as Jurors I should despise you, as much as I revere the institution.

It is true, that *Lawler* is an accomplice; if he were not, he never could have discovered what he explained of the principles of a society, bound by oath to secrecy. How can conspiracy be so totally discovered as by the evidence of a conspirator? yet the stability of his credit remains subject to the observation, that he was himself an associate in the guilt, which was discovered by his information. If the testimony he gave were false and unfounded, it might have been easily overthrown. He states places, houses, names, numbers, societies, days; if the prisoner be innocent, what has prevented his having recourse to the common defence of an *alibi*? why did he not shew, that he was absent from any one of these meetings, by proving that he was engaged in any specific business, that he was sick, or in the country, or employed in any other possible manner? What account is given of the prisoner? I am afraid to trust myself with the evidence, but I trust I have explained it in the most moderate, and dispassionate manner. The witness is not a pretended, or a careless accomplice, he has appealed to corroborated facts for every circumstance of his conduct, and assigned his reasons on every point of his informations.

But the case does not rest on the testimony of *Lawler*. Alderman *James*, swore, he found every circumstance coinciding with the discovery he had made, not only consistent as to the past or the present, but confirmed by what *Lawler* told him was to happen in future. He found a meeting in the liberty, the purpose of which was explained. He also meets an association or mob at *Crumlin*, on the day on which *Lawler* informed him it was to be assembled. *Godfrey*, on arresting the prisoner, found a blunderbuss and twenty ball cartridges in his bed-chamber.

chamber. You, Gentlemen, will ask yourselves, what this boy had to do with a blunderbuss and ball cartridges.

A Juror asked, whether the uncle or any friend of the prisoner was in Court?

Lord CLONMELL. I do not find that he is, and if he were, the prisoner's counsel would have known whether they should produce him. Where is there any person to give an account of this transaction; or even to prove that the prisoner spent his time at home, and went regularly to bed.

Here *Patrick Hart* was called, and the *Solicitor General* having waived the objection against producing a witness at this stage of the prosecution, he was sworn. He said, he believed the prisoner was his nephew, that he was his apprentice, was a boy of a good and loyal disposition, and he did not think him capable of committing the crime of *High Treason*: the prisoner was never from his house later than 11 o'clock, the witness himself was seldom from home.

The Juror observed, he made the enquiry merely from motives of humanity, because he was led to think the prisoner was left friendless and destitute at that hour of the night.

Henry McCormack was then sworn: he follows the tin business, he knew the prisoner and his family, he knew him since he was apprenticed, he never heard any thing bad of the prisoner until this charge; his character has been remarkably good, if any thing material had occurred to its prejudice, he should have heard of it; he knew the prisoner these three years, and was well acquainted with his father, who lives in the county *Meath*.

Lord CLONMELL. My wish to indulge the humane curiosity of the Jury, and the youth of the prisoner have induced me to yield to the production of witnesses at this period of the trial:—had the prisoner been a man, I should not have done so, as there is nothing, which would establish a more dangerous precedent, than the general admission of evidence to patch up a defence.

There are cases where evidence to character is of importance, when a fact is disputed, and where oath is contradicted by oath, a general good character should often prove decisive. But in this case, is there a single fact sworn to by *Lawler*, which has been controverted?

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It is for you to consider the nature of that system of depravity, which has been proved; if you believe there is no such association, that there have been no oaths, that imputation has been cast where there is no ground for it, you are not like bigots and zealots, to say to yourselves, we are *protestants*, and we are the persons who have been marked out for extermination; you should not give way to such impressions, but doing justice between God and your country, you are to judge, whether there was such an association—whether those papers existed—whether with a traitorous intention the prisoner was a member of the society of *Defenders*. You must decide in your consciences what is the meaning of this test. This parchment was found in the possession of the prisoner; but do not therefore risk the conviction of a boy on a hasty conclusion of a treasonable design; banish all such ideas from your minds; but as rational men, do not get rid of your understandings. If you believe the prisoner guilty of all, or of any of the overt-acts laid in the indictment; if you believe that this association existed, and that the prisoner was one of its members, and that he acted the part he is sworn to have acted, you must find him guilty; it is the verdict of your conscience; it is an obedience to your oath. If you believe, that he had this parchment without knowing that it was in his possession, if you believe that it was found upon him, if you can consider it innocent, if you believe that it will not bear the meaning which has been affixed to it, if you believe that from any reasonable consideration, *Lawler* is not entitled to credit, you ought to acquit the prisoner. If this be a case where after all the observations, which have been made on it, you are still in suspense, under such a circumstance you ought to acquit him. The benignity of the law imposes as a duty upon the Jury, when the balance is equal between the guilt and innocence of the accused, that they should indulge the sentiments of mercy. If under all the circumstances of this case, your minds remain suspended in doubt, let your verdict be a verdict of acquittal.

Mr. *Justice* CHAMBERLAIN. Gentlemen of the Jury. On consideration of the evidence which has been laid before you, I must confess, that it is with pain I address you. You have been told, that the prisoner

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stands charged with two distinct species of High Treason. You have been informed, that adhering to the King's enemies amounts to compassing his death. He is not only bound from interest, but he is also bound by oath, to support and maintain the laws and constitution of the country. You know, as men possessed of common understanding, that adhering to the King's enemies, manifests an attempt to dethrone the King, and by construction amounts to an intention to take away his life. I shall therefore confine myself to the charge of adhering to the King's enemies. I shall not attempt to define this species of Treason; but I do not know any act more explicit, than that laid in the indictment. It is impossible to conceive a plainer illustration of it, and instead of defining the offence, I shall point out the facts, as the best substitute for a definition. I hope, I do not differ from the gentlemen concerned for the prisoner, when I state, that adhering to the King's enemies is Treason, though the intent should prove abortive. Thus an intercepted letter is evidence of a treasonable purpose, as was determined by the Court of King's Bench, in the case of *Jackson*, whose treasonable designs were not accomplished. If nothing could be considered Treason, which did not succeed, no man could be brought to punishment until the government of this country be subverted, and it would be then too late to call him to an account for offences committed against a system which was annihilated by his exertions. In this case, taking the evidence to be true, it amounts to plain, obvious, explicit Treason, as ever entered into the head of man. The charge is *adhering to the King's enemies*; I think the whole of the evidence comes to this, that the prisoner associated with *Defenders* for the purpose of dethroning the King, and affording assistance to the powers of *France*. Did not the prisoner become a *Defender* for the purpose charged in the indictment? The first point you ought to consider is, what are the motives of this association? You have heard two papers read in evidence, on the tendency of which you are to decide. *Lawler* swears, that they were the instruments exhibited, when he was sworn a *Defender* by *Weldon*. You may observe, that one of them is a general precedent; it binds the person, who swears to observe it, to be obedient to all committees, in all lawful matters;

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part of it professes to be an oath of allegiance to the Crown, and as it has been observed at the bar, that every subject is bound in allegiance by the ties of natural justice, this oath, far from ascertaining that the allegiance of the subject to the King should continue as long as they both shall live, abridges the duration of it, by the words "so long as I shall live under his government." If there be any thing ambiguous in it, you will find the explanation in the *Catechism*, the question is, "what are your designs?" the answer, "to quell all nations and dethrone all Kings." It would be a farce to say, and it has not been attempted to be denied, that a profession of this kind is an act of adhering to the King's enemies and assisting the powers of *France*. It is true the prisoner was not present when *Lawler* was sworn, but it has appeared, that he gave him the signal similar to that which the witness has been taught by *Weldon*, when he was made a *Defender*. This is some evidence to shew you that *Hart* was privy to the designs of this association, and it is a reasonable conclusion, that every man entering into a society is acquainted with its principles. It is plain from the parchment, that the *Defenders* were associated with the powers of *France*. See what it is, "And I of my own free will and consent, do swear to be true to the present united states of *F. and I.*" From the context it is impossible that this should mean any thing else than *France* and *Ireland*. Gentlemen, in whose minds are *France* and *Ireland* united? you know they are at actual war; you must see they were united only in the breasts of traitors: no man, without the consent of the Crown can unite them, and if this be the test of *Defenders*, they must all be traitors.

Gentlemen, at a period when the country is involved in a most distressing war, for what purpose, can those men unite to take away arms from those who would defend the kingdom, in case of an invasion, except for the design of murder, or of treason? It is wasting time to prove the conduct of the prisoner to be treasonable, and if *Defenders* collected arms with the intent of contriving to wage war against the King, it is impossible that any rational man should hesitate to say that they must be traitors.

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The question for your consideration is, whether the prisoner was a *Defender*, and whether he became such for the purpose of adhering to the King's enemies. This depends in a great measure on the evidence of *Lawler*, and you must be positive, that the prisoner was aware of this intention—*Lawler* is not positive that *Hart* was at the meeting in *Plunket-street*—he was at *Stoneybatter*, where he brought a young man and swore him a *Defender*, declaring when he administered the oath, that the principle of the association was to assist the *French* when they should land. At this meeting it was that he bound the members by oath to assemble in arms on the succeeding night. In fact he appears perfectly possessed of their secrets, and acquainted with their proceedings. The second meeting was in the *Liberty*, where he had a young man whom he told the witness was a *Defender*—on this night he gave powder to the witness and desired him to make it into ball cartridges. At *Drury-lane* he spoke of the *Defenders* intending to rise in order to massacre the Protestants, so that if you believe the evidence he was not only conscious of the scheme, but entered sincerely into the project. This will also be material in obviating the objection of youth, it bespeaks a craft and treachery beyond his years, and proves him to be capable of a treasonable discretion. If you believe *Lawler*, the prisoner was a *Defender* and conscious of their designs. But the case does not rest here; he told *Godfrey* he was sworn a *Defender* by force, and had the parchment put into his possession against his consent. If a man be waylaid and trepanned, God forbid his conduct should be criminal, but if you believe the evidence, you will find it as certain, that he was a party to the cause, and acquainted with the design.

If he had proved by evidence that he was sworn by force, it would be conclusive of his innocence, but the conduct of a man sworn by force would be, that he would immediately disclose the circumstance to a magistrate.—Perhaps it may be imagined that from the youth of the prisoner, such an idea would not arise in his mind; but would he not at least have complained to his uncle of the outrage which was offered him, and been able to give evidence of the circumstance on this trial. I recollect that his uncle was produced, and no question of the kind was asked him. You are to judge whether the blunder-buffs found in the bed-chamber of the prisoner, was in his possession,

possession, and if you think so, the circumstance looks suspicious. These are the most material considerations for you to attend to in this part of the case, namely, whether the prisoner was sworn by force, and you will also observe how far his conduct is consistent with this idea.— If you believe he was voluntarily sworn a *Defender*, and that this parchment was entrusted to his care, it is persuasive evidence of the truth of *Lawler's* testimony, and the case will not rest on the oath of an uncorroborated approver. I admit it may be perilous to convict on the unconfirmed testimony of an approver, but *Lawler* is not a witness of that description; 'tis true, he was an accomplice who made a voluntary discovery; and the history of all conspiracies informs us, that conspiracy cannot in general be detected, except by the information of a conspirator; nor is there any thing unnatural in the position, that those who betray the state, will be ever ready to betray each other. Whenever, therefore, the evidence of an accomplice is confirmed by circumstances, its sufficiency is incontrovertible. Under the law of *England*, which requires two witnesses in cases of High Treason, (whether the law of *Ireland* differs in this respect from the law of *England*, is a question on which I shall deliver no opinion) the evidence of two accomplices is sufficient to convict, and in my judgment, the evidence of one accomplice, corroborated by circumstances, affords a more rational ground for conviction. If you think the prisoner so extremely young, that he was ignorant of the nature of his conduct, you ought to acquit him, and if you shall do so on this principle, I think you would do well to mention it. If you think that his having been forced to become a *Defender* is a falsehood, the defence itself is evidence of craft, and you ought to find him guilty. If any doubt remains in your mind, it is your duty to acquit him.

Mr. *Baron GEORGE*. Gentlemen of the Jury.—I shall trouble you with very few observations. I shall only remark on the charge against the prisoner of adhering to the King's enemies. If you believe he became a *Defender* with an intent of assisting the King's enemies, and dethroning the King, or for either of these purposes, you ought to find him guilty. As to the species of Treason he is sworn to have committed, I shall observe that
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the *Defenders* were associated for treasonable purposes, and that the prisoner became a member of their society with full knowledge of their designs—that these designs were treasonable, you will find from the papers which were read in evidence—from one of them you will discover that the *Defenders* were associated with the *French Convention* to dethrone all Kings—you will find the origin of this society so far back as *January 1790*.—It appears they had committees and officers whom they were sworn to obey.—From the parchment you will find them bound by oath to be true to *France and Ireland*;—you will find them bound not to associate with robbers, and still more not to give evidence in a Court of Justice against a member of their own society. If they were not associated for robbery, where is the necessity of secrecy?—If it be plain they were not associated in order to commit robbery, you then will ask yourselves whether they were not united by Treason?—All the legal powers of *France and Ireland* are at war, and the two countries are united only in the breasts of traitors. If you are satisfied that the society of *Defenders* is a treasonable association, you are next to consider whether the prisoner was one of that association.——The testimony of *Lawler and Godfrey*, corroborated by written evidence, has been laid before you. There is no doubt that the evidence of an accomplice ought to be received with caution; but whenever a Jury is satisfied with the truth of it, it is sufficient to convict; but it ought to be received with circumspection, as it is often admitted from necessity; because if no such evidence could be adduced, the greatest crimes might be committed with impunity, and no nation could be secure from treason which shuns the light, and is fostered in obscurity. Some reflections have been cast on the moral character of *Lawler*—surely no man who obeys the dictates of religion can be a traitor, and calling this man infamous is stating no more than what he himself has admitted.—Still there is something particular with respect to the testimony of this witness, which adds a degree of credibility not ordinarily annexed to the testimony of an accomplice. The counsel for the prisoner have been instructed in every circumstance of what he has proved, because the evidence of this man given on a former trial, almost similar to the present, has been published, and yet no man can be found to controvert what

what he has sworn. His testimony was disclosed months before the prisoner was put on his trial, and yet it remains uncontradicted. Consider whether it is within the compass of ingenuity to fabricate such a system, and to support it with consistency!—this should be a circumstance for your consideration, if his evidence stood alone on its own credibility, uncorroborated by circumstances, but it is confirmed by subsequent facts corresponding with his information. When *Godfrey* went to arrest the prisoner, he received directions to search him, and in his pocket he found the parchment which has been read. You will consider whether he became possessed of it in consequence of the accident which he stated—you must consider how far it is probable, that a man never from home at a later hour than eleven o'clock, should be seized by force and sworn in the manner he described, and have this muniment of Treason entrusted to his discretion.—An honest man might be involuntarily sworn, but the obligation of such an oath is nugatory and vain, and it would be not only the duty, but the inclination of any honest man to withdraw himself from such an association, and to manifest by his future conduct, an abhorrence of its principles. It appears suspicious that in the bed-chamber of the prisoner were found implements with which that oath was to be carried into execution. This circumstance gives an additional weight and probability to the evidence, which it would not otherwise possess.—You are to receive the testimony of *Lawler* with caution, but you are not at liberty to reject it. You are bound by every duty, human and divine, to investigate the truth. You are to consider the truth and the justice of the case.—Other considerations are in other hands.—You have a sacred trust to discharge to the public—If no doubt remains in your minds, you must find the prisoner guilty—if you have any, you ought to acquit him.

The Jury retired at half past one o'clock on *Thursday* morning, and in about ten minutes, returned with a verdict finding the prisoner—GUILTY.

Friday,

Friday, February 26th.

Edward Brady was put to the bar for the purpose of being tried upon the indictment for *High Treason* found against him (*Vid. ante*, p. 175.)—After the pannel was called over, it was intimated to the *Attorney General* that the prisoner was disposed to acknowledge his offence, and throw himself upon the mercy of the Crown:

Mr. Attorney General. My Lords, I understand that the prisoner looks to the Crown for mercy.—Sure I am that nothing can fill the Royal Breast with more true delight than to extend mercy where any thing like repentance appears; and the officers who prosecute for the Crown will feel much pleasure in assisting its benignity under such circumstances.—The prisoner had early manifested a disposition to repentance; but now and again his wavering mind fell back, and did not adopt any settled determination.—My Lords, I shall not proceed upon this trial, and therefore move your Lordships that the prisoner be remanded.

The prisoner was accordingly remanded, and directions were given the Sheriff, that he might be without irons, if he could be safely kept.

Upon a subsequent day the prisoner was brought up and his counsel moved, that his trial be postponed until the next commission.

Mr. Attorney General. My Lords, I consent to this motion, and that the object of it may not be misunderstood, I mean to have a pardon made out for the prisoner, so that he may plead it at the next commission.

Saturday,

Saturday, February 27th.

The Grand Juries of the city and county of *Dublin* were called over.

Thomas Kennedy and *Patrick Hart* were put to the bar.—Their indictments were read and they were severally asked, why judgment of death and execution should not be awarded against them according to law?

Thomas Kennedy. I hope from the recommendation of the Jury that you will have compassion upon me, and I hope for a long day.—A man who was not recommended had twelve weeks.

Patrick Hart. You have been so merciful to *Brady*, who is charged with the same offence, that I hope for mercy.

Lord CLONMELL. You, *Thomas Kennedy*, and you, *Patrick Hart*, and each of you stand convicted upon indictments for High Treason under the statute 25 *Ed. 3.* in compassing and imagining the death of our most gracious Sovereign Lord, the King; and also adhering to the King's enemies.—A plain overt-act of the intention of levying war, or bringing war upon the kingdom, or inducing the enemies to invade it, is settled to be an overt act of compassing the King's death.—Acts such as I shall mention, which appeared from the evidence to have been committed by you, never have been doubted to be overt acts of treason;—nor is it necessary, that you should have carried your schemes into execution, because that would have defeated the justice, by which you have been brought to trial. You have each been found guilty by separate juries of the most respectable citizens in this metropolis. You have, each of you, taken all the advantage, that the peculiar beneficence of our law has granted to persons in your situation, and you have challenged such persons, as either from secret knowledge, or personal dislike, or any other motive, you objected to.—You have had counsel assigned to you of your own choosing, and you have had a long time to prepare for your defence. You have had the assistance of your counsel in the amplest way. You

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have been prosecuted, as your own counsel have admitted, with moderation—with moderation, decency, and temper.—You have been tried I hope, with calmness—with patience—with humanity—and justice by the Court;—with every advantage to each of you, which the Law, and Constitution of the Country allow, and every indulgence which the Court could extend, or which you desired, during the course of a long examination, which was observed upon with the utmost latitude by counsel.

The evidence upon which you have been found guilty left not the least doubt in the breasts of either of these juries. If there had been a doubt in either, they were expressly charged, in case of such doubt, to acquit; and the recommendation they gave shews the humane temper of their minds;—for they have annexed their reason that it was not on account of any doubt of the guilt, but of your youth.

You have been found guilty, each of you, of uniting yourselves with *treasonable associations* in this country;—the objects of which are avowed, open, and plain, to persons of the most inferior understanding—of one infinitely less than you have disclosed in the few words you have uttered. Upon each of you was found written evidence, which cannot be doubted—written evidence that proves your guilt, and speaks for itself.—It professes to be a voluntary oath taken to support—not the Law of the Land—but the *National Convention of France*, for so the Jury have found it. The object of it was to destroy, not only his MAJESTY, but *all Kings*—to be true only to their own association. These two papers, the *Oath*, and the *Catechism* carry upon the face of them intrinsic evidence of your guilt, and shew clearly what your object was, that it was to support a *French* invasion, if the *French* should invade this country. It was proved to the clearest conviction of the Court, not one of whom ever mentioned an opinion before while it was possible it might do you harm with the Jury, that you were first members of the *Telegraphic Society*, you then passed under another denomination, grounded on the affectation of philosophy, the *Philanthropic Society*. Then you became *Defenders*, and you disclosed their object. It is manifest, that you knew by what ceremonies they were instituted—you knew they must continue, if at all, by robbery—by house-breaking—by plunder—by treachery—by murder and by treason.

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All these wicked, and flagitious offences are comprehended under the name *Defender*, as is manifested by what is proved upon you. Your system was to go out with such arms as you could get, or had got by robbery, or other means, to plunder houses in the dead of the night and during the innocent sleep of the inhabitants.—You bound people by oaths to bring their arms, for the purpose of procuring more. It has been proved, that you made subscriptions to buy gunpowder for the same purpose, and when you had collected arms in this manner, it was proved, that you intended to assist the *French*, now at open war—that you intended to assist them in the invasion of this country, when they should attack it, and it was proved upon you, that the purpose of the association, wicked, and flagitious, and rebellious as it is, formed in the very bowels of this country, was to have made a general rising—to have massacred the Protestants of this country—to have taken the corn and provisions—to have taken the forts—plundered the Banks—seized the arsenal—and made an attack upon every fortress in the kingdom!—To assist the *French* in the invasion of this your native country, and you were to become the masters of the island.—It was proved upon you in the clearest way and in the most consistent, I ever heard. You were assembled, not accidentally in this place, or the other.—It was proved, that you were in *Cork-street*—that you were at the assembly in *Drury-lane*—that you were at *Stoneybatter*—that you were in *Barrack-street*—at *Plunket-street*—at *Crumlin*. In all these several places described with accuracy, and pointed out with such clearness, that there was scarce a tittle stated by *Lawler*, that might not be contradicted, if not founded in fact, and that is not fortified by such circumstances, as scepticism cannot disbelieve, nor rational men deny their assent.—Twenty-three are stated to have been at one meeting,—more at another. It was sworn, that one of you declared there were 4000 *Defenders* in *Dublin*, and the use which was to have been made of them justifies the assertion. If you could collect them, the system was artful, and practicable, and too likely to succeed. Numbers of your age were selected, I take for granted, and even that appeared, by persons elder than yourself—you were made *Committee-men* to give you a consequence in your own minds; you were empowered to swear new *Defenders*, to give you a degree of active importance.

ance. You, and each of you were active persons in that part which was most fitted for you—you could read, and write, and you were under the conduct of *Burke*, a man notoriously of infamous character, who had circulated his doctrines to his own disgrace, but not yet destruction, publishing with his name atheistical treatises to justify his conduct. And this was the artful expedient made use of, by instructing you not to believe the power of the Almighty, or the doctrine of rewards and punishments, to make you as wicked as human creatures are capable of being, and then alleging, that you are not to be believed, if one of the party should give information against the others. The system was conformable to the *French* philosophy—"I will debauch their principles, and their minds; and if any man be *weak* enough, or in the general sense of mankind *honest* enough, to betray us, we will shew, he is not to be believed upon his oath, having denied the existence of a God, which we had taught him to do," and thus you would protect one piece of wickedness by another.

Again, see another dangerous part of the system. They resorted to the youngest persons they could find, active, and fit for their purpose. "We will put them, said the advisers, into the departments, that will gratify their young pride, and the unthinking youth shall be made *Committee-men*—they shall consider themselves officers, and if they be detected, their tender years will melt the hearts of the Jury, who will sacrifice justice to the known humanity of the country.

Here then was the second part of the artful and wicked advice by which this system of treachery was carried on. *Burke* was to be one of *ten*—it was proved, that each of the ten was to levy ten, and each of the last ten was to levy five more—thus to make a body of 600:—each man was in some degree in point of justice and good faith responsible for the persons levied by himself. It was sworn to the satisfaction of the Court and Jury, that the design was by dressing these men to the amount of 100 in scarlet uniforms to persuade the citizens into a belief, that the army was with the insurgents, and by this imposition, and craft, to plunder the bank, and secure the arsenal.—Was that absurd?—No such thing. What did you want to effect it?—Nothing but ammunition and arms. It was sworn, that you tried other means, that of robbing the

the houses of individuals ; and as the strongest proof against you, upon you, *Kennedy*, were found the *oath* and the *catechism* ; and upon you, *Hart*, when surprized early in the morning, was found a parchment writing, beginning "I *A. B.* do swear to be true to *France* and *Ireland*," for so the Jury have interpreted it, and then it proceeds in the same traitorous language as those found in the possession of you, *Kennedy*. A blunderbuss and 20 ball cartridges, were also found.

But it is said, why, this is impossible, to make a rebellion of boys. See what the answer plainly is. It is admitted, that there has been a conspiracy—that it has consisted of great numbers, and yet hitherto few, or none have been secured, through the influence of these illegal and detestable oaths administered by boys. Does it not then bring this unhappy reflection, painful to every mind, that it is a conspiracy from which we cannot preserve the youth of the kingdom :—It has gone so far as to corrupt our apprentices ; and it is not poverty, distress, or oppression, which has given rise to it. There is not a man, sworn against as forming this conspiracy, who does not appear to have had a trade, and means of living—a trade and means of living, depending upon the elegancies of elevated life, and not by the necessities of society. One appeared to be a Carver, another a Gilder, another a Glass-Cutter, &c. There have been others of more adult years, connected with societies, not a great way removed from guilt in their breasts and minds, though not indicted for what you have been tried, and found guilty. This is not a subject taken up on a sudden ; you have had the same able and legal assistance, as to one of your counsel, whom you named four months ago. There was not a word of *Lawler's* evidence which was not known for some months ;—it has even become the subject of publication. Yet not one word of it has been contradicted to this hour by any man—by friend, or parent. It appears you are not abandoned children, or forlorn, without some persons to look after you. Your guilt has not depended upon the mere assertion of one man. On the contrary his evidence stands supported by circumstances, and facts, that cannot mislead any mind in the progress of truth. It appears that *Lawler* said, "go take *Kennedy* ; you will find the *Defender's oath* and *catechism* in his pocket."—He had seen it frequently before, and thought it probable
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it might be found, where he saw it deposited ; and there is no attempt to shew any sort of compulsion, or contrivance by which those papers were put in by *Lawler*, or any person for him. When you, *Kennedy*, were arrested, these papers were found upon you ; so that not only what *Lawler* said as to the past tense but also the present is fortified by different facts. And when you, *Hart*, were arrested, this parchment was found in your possession ; not indeed from any information given by *Lawler* ; it does not appear, that he knew of it ; but it is evidence to establish one of the facts charged against you as a *Defender*, which the Jury have found you to be.

I shall speak a word of your age. From the necessity of supporting human society, and of preventing flagitious crimes from being unpunished when perpetrated by youth, Courts have resorted to pained cases, where Judges have determined, that younger persons than you, perpetrating crimes ought to be punished. In the case of murder, a person of the age of ten years was sentenced to capital punishment, and the reasoning of that case will go down to the lowest age, where a malicious mischievous intention appears. And in truth it would be absurd, if it were otherwise.—It would be to say, that certain classes of people in society are able to commit the worst offences, and yet the law cannot reach them. By your industry and activity, if the evidence be true, as the Jury have sworn they thought it, and we have no reason to doubt it, it is now to be taken for granted, that you thoroughly understood every part of the wicked treason you were embarked in. I mention this to shew, that there is no part of society that is not the object of legal punishment, even to the forfeiture of life.

This being a short view of the facts, recapitulated in the manner usually stated by persons in my situation, I must now put you in mind of the horrid offence, and wickedness of which you have been guilty. I suppose there is no rational creature, that has heard what I have stated, who will not go away convinced, that the evidence is plain, clear, and coercive. There has not been a single fact contradicted, or explained in your favour, and that the matter of these papers found in your possession is most flagitious and detestable cannot be denied.

The salvation of this kingdom has, under the providence of God, been secured by the information given by
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one of yourselves, by which your bloody, and treasonable designs have been defeated, and prevented. For if you had succeeded in your abominable projects against this kingdom, instead of its having been, in the time of a ruinous and calamitous war to every other part of the earth, the most fortunate spot on the globe until 1790, it would have been the miserable scene of carnage, like *France*, the place from whence you expected friends and assistance.

The punishment of our benign law not being for vengeance, but to deter others by example, has led me to expatiate upon the evidence, and the nature of your crime, your situation, and circumstances, and the danger to which the kingdom was exposed if the design had not been providentially revealed by the information of the prosecutor, more at large than perhaps I would have in another case. But it is right, that in the publication of this trial, the eye of the public should be open to a full view of their own situation. Persons who have been involved in these conspiracies should guard themselves against the mischiefs of high treason, by being publicly apprized of the punishment attending upon it.

You have in another instance wounded the peace of society extremely. You have in the progress of your wretched and treasonable pursuits thrown a cloud of suspicion over your connections, and your associates, which can never be dispelled, but by their most explicit good conduct; for if any person formed the most distant conjecture of your views, every such person has been guilty of a gross misprision, by not disclosing them, so that they might be best guarded against, defeated, or prevented.

It is a painful part of my duty which yet remains, and that is, to pronounce the dreadful judgment of the law upon you, which has been considered by the Court.

[His Lordship then passed sentence upon the prisoners, in the manner usual in such cases, after which the prisoners were remanded.]

After the prisoners were removed, his Lordship addressed the Grand Juries.

Lord CLONMELL. Gentlemen of both Grand Juries. In addressing you, I mean only to give you that preference,

ence, which the law has given you, by thinking you the first auditors of what has passed. What I said, and mean to say, if I did not think the occasion called upon me to speak to you, and through you to the people now assembled, I might well be excused from this trouble. It is a painful task. I hope in God, it may be attended with the consequence I expect. I thought it might involve considerations of too great extent to comprehend it in the lessons I was obliged to give the prisoners. I therefore restrained myself, meaning to address you. Many are here collected, of different ages and various degrees; some entrusted with the highest places which the constitution knows. I thought if any thing could be done, by calling the attention of such an auditory, by calling them to a sense of their situation, this would be the most useful hour of my life. This subject of which you have heard so much, is a prosecution, conducted by the servants of the state in the manner which you have observed, and involved in the length of time you have perceived. My objects are two-fold. First, to shew what I think (and it is a satisfaction to find that my ideas correspond with those of my brethern) of the probability of the charge made by *Lawler*—and next, if I can, to exhort you to a manly exercise of your duty as magistrates and subjects.

Gentlemen, as far back as the year 1790 and several years preceding, I suppose there was not a country upon earth, that felt itself in so fortunate a progress of prosperity and advancement as *Ireland*. At that period commenced, and it is so stated by written evidence, the institution of *Defenders*, though perhaps under another name, for the *sath* states their institution in 1790, with improvements since. The country has been since involved in three of those calamities, that each of you, who do your duty to God pray to be delivered from, namely, from “sedition, privy conspiracy and rebellion.” I am speaking of facts of notoriety. It began with sedition; and the simple and inspired line which I have quoted, with a knowledge of the human heart, makes the other two follow, viz. privy conspiracy and rebellion. It is from these I hope God will deliver you. At that time, a fugitive traitor, *Hamilton Rowan*, who had for sedition been imprisoned, and was connected with that self executed traitor, *Jackson*, and some other fugitive felons, whose names it is not necessary to mention, had begun to vitiate and debauch the minds

minds of the country, and from that time to this it has never rested—*French* names and proceedings were adopted—treason was the object—murder the means. In 1791, *William Lawler*, who has since appeared as a prosecutor, having learned a trade, by which he appears to have got a reasonable and comfortable subsistence, left this country, and went to *England*, where his father had been—he enlisted as a soldier, and having deserted from that situation, changed his name. I will shew you, that love of life, the dearest object of human creatures, has been the original director of this man's conduct—that he discovered to save his life, and not before he thought his life was in danger, and that not from the law, but his own associates.

He went to *London*, and there under the name of *Wright*, he got into one of their treasonable corresponding societies. I speak from his own description of it. I am not a Judge of that country, nor am I to try any of them. But his description was, that they were to *force* a reform by arms brought to the *Throne*. He was asked, if he had room to conceal 100 arms, for that it was as necessary for them to learn the use of arms as well as the society of *Sheffield*, who had it in contemplation to *force a radical reform*.

Now, take up the first part. Is it improbable, that men in the army should be resorted to?—the thing speaks itself. Is it improbable, that a man, who deserted, should change his name to prevent his being detected?—the thing speaks itself. While in *London*, he is directed to a man of notorious name, *Daniel Isaac Eaton*, who recommends him to *Rowan*, at that time not thrown into gaol.—*Lawler* got a letter under the name of *Wright* to *Rowan*, to whom he told his real name, and the very masque was a sort of recommendation to such a man as *Rowan*. I speak without reserve of a man, who has quitted the kingdom, and stands outlawed and attainted of treason.—Was it likely he should object on account of the fiction of name?—He makes *Lawler* a present—of what?—of a print of *Thomas Paine*, the saint of rebellion, anarchy and murder! Proud of his present, he follows *Rowan* into the gaol of *Newgate*?—there *Rowan* discourses with him upon the propriety of having corresponding societies here, similar to that in *London*. Is there a tittle of that improbable?—or at which the mind revolts?—that a per-

son, coming into this country should endeavour to circulate those opinions and principles he adopted there.—“Get six staunch men,” says *Rowan*, “whom you can depend upon. I would rather have them than 600 others—see what has happened to me—I have been discovered by those who were not staunch.” If this was idle talk, founded in imagination and wicked lies, it might be contradicted by those who then attended *Newgate*. *Lawler* next becomes a member of a society, called the *Telegraphe*, which opens, by degrees, more largely into the *Philanthropic*. These were headed by whom?—By *Burke*—a man, notoriously of infamous character, expelled from the University for abominable blasphemy and impiety. Where is *Burke*? Why not contradict what *Lawler* said? No person pretends to say, he is not in existence. But it may be said, he is afraid. Why is he afraid?—he ought not to be afraid, if he be an honest man. If he be an honest man, why not contradict this account?—but it does not depend upon *Burke* alone.—*Lawler* states a number of persons by name. He was himself a zealous *Defender*—his religion, protestant, and he frequently attended the methodists. He was apparently an enthusiast to his purposes—going as far as the *Defenders* did—and for what?—in order to establish a *Republic*.—He was employed to levy forces, he did levy them. He levied his ten men.—Was this improbable?—He had been a soldier—he enlisted his ten men, according to his promise to *Burke*. Is there any thing in that at which the mind revolts?

What is next to be done?—they collect together, not in one place only, or secretly, but in several. He attends; he describes the places most accurately. Twenty-three met in one place; he mentions most of their names, *Cook, Dry, Coffey, Gallan, Atkinson, &c.* These were my associates. Were they?—They are fugitives in guilt, and conscious traitors—why do not some of them come, and contradict what this man has sworn?—What is next done?—after he stated who were at *Dry's*, he mentioned several other places, and particularly *Plunket-street* where *Defenders* met, and where subscriptions were made for buying *gunpowder*;—the waiter was a *Defender*, and therefore took care, not to let strangers in. Is there any man to contradict this?—Honest men need not be afraid to allege the contrary, if the facts were not so—any of the

the family could prove it, if it were false. The prisoner might say (if the fact were so), "I was in bed, and will shew it—we were not at *Dry's*, or we were only three in number." The witness mentioned several house-keepers—is it not a challenge to the whole city of *Dublin* to give evidence against these assertions?—"Let me see, if there be any man to contradict me."—What does he say next?—he uses language that must bring certainty to every mind—"I liked the prisoner as a *Defender*." There is no evidence to shew he had any quarrel with these people. He was himself a faithful *Defender*, as they thought. One of them told him, if he was asked what religion he was of, not to say he was a *Protestant*; accordingly he said he was a *Roman Catholic*. Upon that confidence, *Hart* calls him into a window, when they were assembled at *Drury-lane*, and says, "you know that *Coffey*, the chairman, what religion is he?" "Why do you ask me," said *Lawler*?—"because," replied the other, "if I thought he was a *Protestant*, I would not keep him company, and I tell you, that the intention was to make a general rising on such a night, but we considered, that if we did it, before the harvest was got in, we might be starved, but as soon as that is done, we will make the attack." Then indeed, it behoved *Lawler*, who had changed his name to save his life, to take care of himself—"they will find out, that I am a *Protestant*, and it is necessary I should save my life." Is there any thing improbable in that?—Let me be understood to say, that they were to be destroyed by *Defenders* and ruffians, traitors, and rebels. Does this cast reflections upon the good subjects of the kingdom?—No such thing;—God forbid!—I wish to make every man zealous, bound in point of honour as well as conscience to support the cause of justice and of his country against ruffians, against plunder, violence, murder, and treason; and if you adopt the means which I shall suggest, I will shew, that in a month, if you do your duty, there will be an end of *Defenders* and of treason. It is a bold promise. It is a promise founded in my conviction of the integrity and spirit of *Irishmen* and all classes of them. Let me proceed, however, with the conduct of these men. With respect to *Kennedy*, the *Defender's* creed is found in his pocket; it was found, where the witness had previously said it was. Why, to talk of his not deserving credit
after

after that, would be to suppose men were made up of idiocy, and phrenzy. If you find your watch in a man's pocket, would you disbelieve the man, who had previously told you it was there. To doubt then the evidence as to *Kennedy* would be to make you the most stupid animals without sense, or motion. Then what is found upon *Hart*?—not indeed what *Lawler* knew to be there; but there is found in *Hart's* pocket, at his uncle's house, in a room up stairs, this notable *Magna Charta* of *Defenderism* and treason, in more strong expressions than either the *oath* or *catechism*. It speaks as treasonably, as rebellion, or treason could make it. *France* and *Ireland* are called *United States*!—It was well observed by one of my brothers upon the trial, “how united but in treason?”—You may as well unite fire and water. The two nations are at war, and can only be united in a bond of wickedness and blasphemy, rebellion and treason. So that finding this paper upon *Hart* would alone shew, that every word said respecting him was true. But does it rest there? No: for in the chamber of these *infants*, as they are called, dressed out so for the occasion, there are found a blunderbuss and 20 ball cartridges!—Then it is said, will you pass sentence on infants?—I have known juries long; I have never known above three instances where they were mistaken. How are these juries taken?—from the body of the city. Was it a parcel of grandees?—no such thing. Each of these boys, by industry and diligence might in the course of a few years, be as great and as grand as any of those who tried him. What then was found?—a blunderbuss and 20 ball cartridges! Is this the innocent skinner's apprentice, with a blunderbuss and 20 ball cartridges in his box!—Gentlemen, parents do not do their duty. Magistrates do their duty ill. Masters still worse. Neither their duty to God, their consciences, or the public. Did they but see, where their apprentices, and those employed about them consumed their time, and what company poor lads, taken from their parents, and left with those who should teach them religion as well as trade, frequented, the mischief might be prevented. Can it be imagined, that if Masters did their duty, such a system as now prevails, could continue for a week?—No. But what do the Masters come here to say?—not to contradict the witness, but to say, they do not believe him.

One

One man was a member of a *reading society*. A Master Tailor, 36 years of age, and a father of a family, reading *Pope's* works and a *Dictionary of Sciences* ! " I attended a *reading society*—it became the *Philanthropic Society*, and *Paine's Age of Reason* was " the object of our studies." Is this the way in which the honest and well deserving tradesmen and artificers of the city of *Dublin* should be employed ? If *Masters* were employed as they ought, would *Apprentices* be employed as they ought not ? Another witness produced on behalf of the prisoner was a man of the name of *Robinson*, and very unfortunately, I find an indictment against him. I do not presume him guilty ;—but he is indicted—for what ?—for publishing caricatures—an odious mode of obtaining a livelihood. Who is the next witness produced ?—the landlord, who found him honest, industrious, and diligent, but said he did not deserve credit, because he used to work upon *Sunday*, and did not go to Church. Who is the next person brought to impeach *Lawler* ?—*Gallan*, who became a grocer from an hair-dresser, and who *Lawler* proves had given him a pistol, knowing what use was to be made of it. The pistol was brought into Court. My God, then is it necessary to go into a deep and laboured refinement to satisfy you, that every thing which has been said hitherto is deserving of credit ?

It is said, and it was argued upon ingeniously, that a man having no sense of religion, who thought of putting the King to death, who deserted, who was charged with petty thefts and was faithless to his own people, are you to believe him ?—The answer is plain—you find that the man entered into a wicked association, and when it came to touch his own life, he quits it. Under what circumstances ?—Not as an approver. He was not sworn against. Not a man of the whole gang was sworn against. He came and gave information to him in whom he thought he could confide. He then goes to Alderman *James*, tells him of the situation of affairs. An assembly was to be had ; and their object was communicated. The magistrate meets 3000 people. In answer to a question, put by the prisoner's counsel he says, he believes their object was to attack the bank, plunder it, and take the arsenal of the *Castle*. Is that a reason, why *Lawler* is to be disbelieved, because he is confirmed by a magistrate of the city of *Dublin* as to part of the information he has given ?

Again

Again as to *Crumlin*; a meeting of *Defenders* is held there—that will be the time, says *Lawler*, to rescue me—and that is the time, he first openly abandons the association. If he were a liar, is there any thing more certain, than that he could not muster 3000 people? What then prevents you from yielding to every rule of probability, confirmed by testimony that cannot err?—For so it is with respect to what has been deposed by *Carleton* and *Godfrey*; all confirming every tittle and every circumstance passing from this man's lips.

See it in another light. It is said he concealed part of what he should have discovered, namely, the abominable design against the CHANCELLOR. He did so. But it appears there was such a design. To be sure, a man who was not shocked at the idea of destroying the KING, would not be shocked at the scheme of destroying the CHANCELLOR—but he was shocked at his own danger.—And is this improbable, that they designed mischief against that great magistrate, whom they afterwards attacked, and were near destroying in the open streets?—Therefore you see that probability follows this witness, as a shadow does the substance, fully establishing the truth of his narration.

Now as to another part of the case. One of these *Defenders* was tried three months ago. The evidence was very nearly in terms the same, with regard to the *Defenders*, as has appeared against these two boys. Three Judges attended upon that occasion;—men, whose characters, if some of them were not present, I would minutely describe, men of temper, of high reputation even before they got upon the Bench—they try and approve of a verdict against *Weldon*. One Jury acquitted *Leary*.—Why? Because the only time he went among them, he was drunk. In such a state, any man might have done the same. But then a clamour is made through the country, “are the lives of subjects to be taken away upon the oaths of atheists?—A fly's wing ought not to be hurt by his testimony.”—See what was done: the Judges postponed the execution of the man, to let in time as much as possible to see whether subsequent events would produce any different evidence. Time is given, assistance is had, and every opportunity upon earth is allowed to bring light upon the subject, and discover whether the witness were a liar.

a liar. What is the result?—a confirmation of every tittle. But there is another circumstance:—two or three of the Jury in the latter cases were upon the Jury who acquitted *Leary*: it was to their honour; though perhaps in such cases, honour should not be spoken of. But it so happened, that some of the Jury who acquitted *Leary*, were upon the Jury who found *Kennedy* guilty. So that with every prejudice which they might have derived from *Leary*'s case upon their minds, after a trial which took up thirteen, or fourteen hours, they came back in ten minutes satisfied, that *Kennedy* was guilty.

Again, I had the good fortune to be assisted by two of the Judges, who presided in the former cases: they brought their notes into Court with them, and as was their duty, compared those notes with what appeared upon the latter trials, in order to discover, whether there was any inconsistency. It is the fashion now to publish every thing. The former trials were published; every thing met the public eye, and still every thing is confirmed:—what was sworn to before, was sworn to again, and no part is contradicted.

I shall take leave of this part, convinced in my mind and satisfied in my conscience, that the information of the witness, upon every part material to the trials, was founded in truth. I shall end this part with this observation.—It was sworn, that they intended to have put to death the Jury who found *Jackson* guilty. It was not improbable, that they who designed to murder the KING and the CHANCELLOR, would have murdered a Jury. When the last Jury heard what the witness said it required manliness, to find a verdict of conviction after such a menace: they were convinced by facts, and they scorned to entertain any fear. They heard what might have alarmed weak minds, little, weak, traitorous, minds. A Juror might have said, "I will not put myself into that situation,"—on the contrary, they came in manfully, in ten minutes, finding a verdict of guilty upon their oaths and their consciences.

But after that, each Jury did recommend the prisoners, as objects of mercy, and assigned their single reason, that it was on account of their youth. I then said, what I now repeat, that I would communicate that recommendation to government. I lost no time in it; I stated

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it in the very words of the Jury, without adding a word of mine upon the evidence, being of opinion, that I should not serve the prisoner if I did. The consideration of mercy is where it ought to be, untouched by me. It will be exercised or not, for any thing I know ;—I form no conjecture upon it.

I now take leave of this man, and the general opinion circulated about him, that he is not to be believed upon his oath. If there be any man in Court of a different opinion, he is of different materials in heart and understanding from any I know of.

Is it of consequence, or not, that these trials should go into the country, truly ? I think it is. It was alleged, that the verdicts were founded upon the extravagant assertions of a wretch, who should not be believed. If there be any man, who thinks that way, I desire no longer to discourse with him upon any subject.

Having made those impressions upon your minds, which I trust I have, with regard to the credibility of this witness, let me mention what is of more consequence to us all, and if you treat it with neglect, you do not deserve what the constitution and your oaths suppose you to possess, nay, the heads you wear. We have been labouring five years under the evils of sedition, coupled with privy conspiracy, and rebellion. One springs from the other, but fortunately as they grow up, they crumble by the weight of their own enormity and could not exist but from one cause, and that is, the criminal torpor, which prevails among you. I have observed a criminal disregard, indolence and inattention of the most apparent duty of the subject, for some time past, to such a degree as has been productive of the most serious mischief.

Here I cannot avoid obtruding a word upon you with respect to myself. The history of my life has been a history of toleration. By education, by nature and the habits of my life, I have been led to indulge toleration. I never discouraged enquiry. Bold, open debate, open argument, honest opinions, only guarded by the principles of charity, morality, good order and decency,—so guarded, let your argument be as free as wind, and your words as comprehensive as language can speak. If I have misrepresented myself, I call upon the

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community to be witnesses against me. Every man feeling any regard for the common welfare must acknowledge, that the present moment is sufficient to raise suspicion, which is ever considered as the best centinel of wisdom. I am now speaking before a number of people, who have made fortunes—who are remarkable for industry—who never forgot the common good, in pursuing their personal interest, I ask them, whether this be not a moment for alarm?—What, that you should have a club of traitors in the bowels of your country? and have found none of them but a few boys and a soldier!—Why do you not exert yourselves?—You acknowledge, that there is a set of people called *Defenders*, they come in the night—they take arms, and get money, *but* they mean no mischief!—They take arms:—Why do you suffer them?—“Why, really,” answers one of these supine men, “I do not know: one would not wish, to be sure, to make enemies.” And what do you expect?—“Why, that I shall not be the first whose throat will be cut.” But if you should not be the first, you will be second; and if not the second, you will be the third. See what has been the case in *France*: what a succession of persons have been mowed down by the populace! The Duke of *Orleans* came to the block under the hands of the persons, whom he himself had raised into consequence. That may be the case here.

Another excuse is urged. “If I enquire after those who take my arms, they will cut my throat.” I am not now talking lightly. What did *Swift*, who was a man of much political sagacity?—This country had been greatly infested by a nest of robbers; by one spirited paper, teaching, that each honest man had strength enough to root out the mischief, he obliged them, in a manner, to do that which as members of society, they ought. They were pursued, laid hold of; the arms were taken from them.—What is attributed to one of the *Mount-morres* family?—With one sword, he subdued seven, and brought them to the gallows. I saw the man’s picture, with blood upon his face:—glorious picture! and glorious story to be told! If you have minds and spirits entertaining any regard for your parents, your children, or the constitution, which you hold dear, can it be doubted, that, with the assistance of government, the power and the sinews of government, if individuals exerted themselves for a month, these conspiracies must be suppressed. Every sensible man of every

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denomination should step forward—I mention not names—I call upon all ranks, whether protestants, or not;—I call upon all classes of religion to stand up and do their duty, and suppress a common evil. Who have been the instruments of it?—men, who have fled from the law, or who have suffered under it. Can it be doubted then, when you have every man of property to watch, and detect abuses of so mischievous a nature, that they could not be suppressed?—Take notice of every person within and without your houses—observe what their opinions and occupations are—where they spend their time, and how they are employed. I am not talking now to infants, or boys;—if due vigilance be exerted for a month, a *Defender* could not exist for a month within 40 miles of *Dublin*. These are either servants, or apprentice boys—or work-men. Look then into your houses, and see how your tenants, domestics and others are employed—examine public houses; see what the general conduct is, that people do not lose their senses by excess. Want of morality becomes a necessary consequence of want of sense in such cases. We see in this great town, swarms at every lane, debauching the morals of its inhabitants. Men have been punished by the pillory, for what?—for endeavouring to corrupt the minds of the youth by obscene pictures, and yet I have seen twenty men, with smiles and smirks, as if they were pleased and delighted with scandalous representations. What are magistrates for, if these abuses be tolerated?—Point your minds to *Scotland*:—she is a model of temperance, of understanding, of wisdom, of religion, of decency to all the world, and she has thriven accordingly. It is not, that the *Scotch* are a fortunate people. No, it does not depend upon fortune; it is good sense, and good conduct. There is not a drunken creature to be met with there in a month. Whereas here, I am sorry to say, that I have more pain in keeping my horse from trampling upon drunken people of a *Sunday* than from any care of myself—in defiance of all decency, they seem to have come drunk into the world, and they determine to go drunk out of it.

But see the consequence of this: people are rendered ripe for any mischief. Exert yourselves then to stop this evil. Call for aid in this undertaking, and if you find the magistrate or the friend disregard you, mark that
man,

man, no matter what his religion, or tenets may be, whether he carries the prayer-book, or the breviary, the *Koran* or *Confucius*, if he do not assist you, when he can, he is a *Defender*, and treat him as such.

Make men give an account of their conduct. See what is done, and declare what ought to be done. Any act which makes a man accessory in felony, makes him a principal in treason. If he comforts, and abets a traitor, knowing him to be such, he becomes a principal in treason; therefore it behoves him to take care how he keeps in his mind the knowledge of a man being a *Defender*. Every man, who protects, who assists, or abets, upholds, or harbours a traitor, knowing him to be such, is in the eye of the law and in common sense a traitor, and liable to the penalties of treason. The next offence is misprision of treason, and that is, where a man knows a person to be a *Defender*, and conceals it; there he is guilty of a misprision of treason, which is punished with the forfeiture of goods and chattles and imprisonment for the life of the party.

I am stating this in the presence of many knowing the profession. If I mistake, let me be corrected. I am speaking before an auditory consisting of hundreds. Is it not probable, that many of those who hear me are trembling at the idea of having assisted *Defenders*, or having been guilty of misprision in not discovering them?—It is therefore time to watch their own conduct. I have given them fair warning. I have told them the law, as it was my duty to do, at an important and alarming period. I scorn the consequences so far as they may affect my own person. If this infamy is to disgrace your country (an infamy which it has escaped for 100 years, for *Jackson* was the first traitor tried here for a century, and you see they are thickening and encreasing) so may God judge me as I had rather die to-morrow. I am not speaking for myself. I have means of protection, which many have not. But your spirit and integrity is your best protection—it is the protection of the humblest among you. Honest virtue and spirit triumph over all the vices of the earth.

Adopt as many of these sentiments, as come home to your hearts, and the situation you are in; I hope I have in thus addressing you done some good; I certainly did not mean to do any harm.

Mr.

Mr. Attorney General. Is it your Lordship's wish to mention any day for execution to be done upon these men?

Lord CLONMELL. Mention the day yourself; we will adopt your sentiments.

Mr. Attorney General. I had no particular day in contemplation. We wish nothing more, than that of making these prosecutions have the effect, which was intended, namely, the effect arising from example.

Lord CLONMELL. You can have no other object. One of the prisoners mentioned with some sharpness, that a man not recommended had ten weeks. Do you think a month will do?

Mr. Attorney General. My Lord, I have no other object, than what I mentioned. But the compassionate course to be taken is to make examples as soon as may be consistent with humanity—to shew the people, they cannot escape punishment, and thereby prevent other fellow creatures from following the like crimes.

Lord CLONMELL. Suppose we appoint this day fortnight?

Mr. Attorney General. My Lord, that will give time enough for those who have power to extend mercy, if they choose to do so. But the prisoners should not entertain such an idea themselves. I wished the day not to be too distant, lest the prisoners might indulge expectations, which were not afterwards to be gratified, and at the same time not to encourage those who are taught by every possible means, that government is disinclined to execute the law. Every person in Court has discharged his duty, with coolness, deliberation, and impartiality, and my only desire is, that the prisoners may not be impressed with an idea that they are not to suffer, which might be fatal to them hereafter. And people should not go away with an idea, that there is a weakness in the government. If any man mistake me, I cannot speak plainer than I have done.

Mr. Justice CHAMBERLAIN. From what has happened this day, I think my brother GEORGE and I should mention

mention why we appointed a distant day for *Weldon*. I declare most solemnly, that it was not from any doubt of the propriety of the verdict. But the circumstances were very particular at the time of the sentence. One Jury upon *Lawler*'s evidence convicted *Weldon*. Another Jury upon the same evidence had acquitted *Leary*; and it was clear, that the same *Lawler* would be again produced at this commission. We could not foresee what would happen; and if it had happened, that *Lawler* was discredited by a Jury, it would be our duty to recommend *Weldon*. Therefore a day was appointed for his execution, after this commission, for the purpose of ascertaining to the public satisfaction, whether *Lawler* was deserving of credit or not; and that was the only motive. We should be deserving of public censure, indeed we should receive our own censure, if we sentenced *Weldon* and allowed him to suffer, and afterwards *Lawler* should be discredited. I mention this, because in every case of this kind, it is highly essential, that the public should be satisfied.

Mr. *Baron GEORGE*. As Judge *CHAMBERLAIN* has mentioned, that there was no doubt in the minds of the Judges who presided upon *Weldon*'s trial, as to his guilt, I think it proper to declare, that I myself have no doubt of his guilt. But from the circumstance of *Leary* having been acquitted, we thought the ends of justice required, that the progress of justice should go forward in such a manner, that no event should arise to discredit that justice. It is not only necessary that Judges should be satisfied; but we thought the ends of Justice required, that occasion should be given to prove the guilt of those persons to demonstration. The infliction of such severe punishment, as is denounced upon crimes of this sort, ought to be done with the utmost deliberation, more especially where the Crown, for the safety of the state, is the prosecutor.—There should be nothing hasty, vindictive, or passionate, that people may see, government intends nothing more, than the distribution of justice in mercy. For these reasons, and as in cases of this sort, nothing like mistake should intervene, we postponed the execution of *Weldon*, that every man in the kingdom might see the nature of the evidence. But it was not in consequence of any doubt whatsoever that rested in the minds of any of the Judges. This was the opinion of Mr. *Justice FINUCANE*, who is now absent. If he were here, he would declare the same better than I can for him.

Mr.

Mr. Attorney General. I am apprehensive what I said was not perfectly understood. I had no objection to a distant day; and so far from it, that if my humble opinion were necessary, I did approve of the delay; and if my opinion had been desired, I would have recommended a postponement.

Saturday the 12th of *March* was appointed for the execution.

Hugh Crothers, Esq. Foreman of the City Grand Jury, addressed the Court and read a resolution passed by the Grand Jury, expressing their sincere thanks to Lord Chief Justice CLONMELL for his able and spirited address to them, and requesting his Lordship's permission to have it printed.

Lord CLONMELL said he acknowledged the favour and was grateful for the compliment conveyed by the Grand Jury. He hoped what he said made a due impression upon their minds; but was sorry he could not comply with their request, as he had not prepared any notes for the occasion.

The following day the High Sheriff of the County communicated to his Lordship a similar resolution of the County Grand Jury, to which his Lordship returned a similar answer*.

Weldon was executed at the front of *Newgate* pursuant to his sentence.

Kennedy and *Hart* were respited until the 19th of *March* when *Hart* was executed. A further respite has been granted to *Kennedy*.

* I hope his Lordship will excuse me for presuming to publish this address from my own notes. I feel that I have not been able to do it complete justice, but a wish to promote the same object, viz. the public good, has occasioned this publication.

4.

C7

R E P O R T

OF THE

Trial for a Conspiracy,

AT AN ADJOURNMENT OF A COMMISSION OF
OYER AND TERMINER,

HELD IN AND FOR THE

CITY OF DUBLIN,

IN THE MONTH OF FEBRUARY,

1796.

No. IV.

By WILLIAM RIDGEWAY, Esq.

BARRISTER AT LAW.

D U B L I N:

PRINTED BY JOHN EXSHAW, No. 98, GRAFTON-STREET.

1796.

R E B O R T

OF THE

Panel for a Conference

AT AN ADJOURNMENT OF A COMMISSION OF

OTHER AND TERMINAL

RECORD AND FOR THE

CITY OF BOSTON

OCT 12 1908

ADVERTISEMENT.

ALTHOUGH the following be not a case of HIGH TREASON, yet being upon a charge of *Defenderism*, it may not be deemed an improper supplement to the foregoing trials.

173411-70

All the above mentioned persons
 have been examined and found
 to be in good health and
 are now in the hands of
 the medical department.

R E P O R T

OF THE

Trial for a Conspiracy.

COMMISSION.

Monday February 22d, 1796.

THE Grand Jury having found the following Indictment, the Persons therein named were this day arraigned.

County of the City of } " THE Jurors of our Lord the
Dublin to wit. } " King upon their oath present that
" Andrew Glennan of the city of Dublin, Yeoman,
" Philip Kane, Owen Reily, Charles Seraghan, Patrick
" Kinsbela, Michael Sleaven, John Connor, Hugh Byrne,
" Michael Welsh, John Ratican, James Carmichael, James
" Connor, and James Dempsey of the said city Yeomen,
" being persons of evil name and dishonest conversation

P p " on

“ on the 31st of *January*, in the 36th year of the reign,
 “ &c. at *Suffolk-street*, &c. contriving and intending
 “ one *John Hanlon* wrongfully to oppress and aggrieve,
 “ and him to death and final destruction to bring and
 “ cause and procure to be brought on the same day year
 “ and place with force and arms, &c. unlawfully wick-
 “ edly and maliciously did conspire, confederate and
 “ agree the said *John Hanlon*, feloniously, wilfully and of
 “ their malice afore-thought to kill and murder, to the
 “ evil and pernicious example of all others in the like
 “ case offending, and against the peace of our said
 “ Lord the King his crown and dignity.”

The prisoners severally pleaded *Not Guilty*.—And a Jury being sworn, the prisoners were given in charge.

Mr. *Attorney General*. My Lord, and Gentlemen of the Jury. This is an indictment against the prisoners, for conspiring to put to death *John Hanlan*, a soldier in the *Artillery*. Gentlemen, the mentioning of such a crime alone must impress every mind with horror, and I am sorry to be able to state, in the hearing of my fellow creatures, that crime which is growing too familiar in the lower orders of the people. I do not say this with a desire to see conviction pass upon these people; but to shew how necessary it is to examine into the matter with all possible attention; that if the prisoners be guilty, they may be found so, and examples made to deter others from offending in like cases.

Gentlemen, the circumstances of this case are very few. It is known very well, that seditious conspiracies have existed within this kingdom for a considerable time; they have been entered into by persons associated as *Defenders*. Several persons have been brought to trial, and some have been punished for their offences, amounting to *High Treason*. Some who have been accused, and arrested, yet remain to be tried. In the town of *Naas* there at present remain several persons, some indicted at the last assizes, and some have been apprehended since—all charged with some species of crime or other, which fall under the general denomination of *Defenderism*. (a) Among these

(a) At the Spring Assizes for *Kildare*, 1796, three persons who had been indicted for *High Treason* submitted, and three indicted for administering unlawful oaths were found guilty upon the testimony of *Hanlon*. Three men were found guilty for being concerned in shooting at Mr. *Ryan*, and two others, indicted for the same offence, submitted.

these

men, remaining in a gaol of *Naas* is a man of the name of *Gavacen*, who lived near *Kilcock*. He stands charged with several offences, and will be brought to trial next week (b). He is brother-in-law of *Glennan*, the prisoner. Gentlemen, the prisoner, *Glennan*, is a dairy-man, and lives in *Bow-street*, in the city of *Dublin*. It has been the diabolical policy, adopted by these people, to prevent their associates from being brought to Justice, when apprehended, by assassinating the persons supposed to be witnesses against them. *Glennan* conceived the design of assassinating *John Hanlon*, whom he supposed would be a witness against the prisoners in *Naas*, and among the rest his brother-in-law. A man of the name of *Thomas Smith* is a gunner in the *Artillery*. He was known to *Glennan* for some time, and was high in his confidence. *Smith* had in a way that he will describe to you associated himself at a distant period back with some persons, who had entered into these conspiracies. He had remained with them but a short while; when he became sensible of the situation in which he stood, and made known to Government the conspiracy which existed against it. *Glennan*, being desirous to procure the acquittal of *Gavacen*, and the others in *Naas*, conceived, that through *Smith*, the soldier in the *Artillery*, he might easily effect the assassination of *Hanlon*, whom he supposed would be a witness against the prisoners in that town. Gentlemen, in order to bring to effect this purpose, some time in the beginning of *January*, he sent for *Smith* to come to his house.—*Smith* obeyed the summons and on *Sunday*, the 3d of *January*, he came to the house of *Glennan*, at *Bow-bridge*. *Glennan* there told *Smith*, that there were several *Defenders* remaining for trial in the gaol of *Naas*, and asked him if he knew *Hanlon*, who had some time before enlisted. *Smith* said, he did. *Glennan* then said, he was to be a witness against the *Defenders* in *Naas*, that he must be murdered, and he told him, that he expected through the means of *Smith* to be able to effect his purpose. After some further conversation, it was agreed, that a meeting should be had at the house of *Carmichael*, who keeps a public house in *Thomas-street*. A meeting of the "Boys," as they denominated it, upon *Sunday* the 24th of *January*, in order to confer upon the means of effect-

(b) *Gavacen* was afterwards convicted of administering an unlawful oath, upon the testimony of one *Kelly*.

ing their plan. Upon the 24th *Smith* came to the house of *Carmichael* and there he met *Glennan* and several of the persons, now at the bar, and there they did confer together upon the means of assassinating *Hanlon*. They desired, that *Smith* should prevail with *Hanlon* to come to town upon the ensuing *Sunday* to *Carmichael's*, where they would meet *Glennan* and the rest of the associates, that they would accompany *Smith* and *Hanlon* back again, and throw him into the *Liffey*, as they walked along the path. *Smith* communicated this scheme to Serjeant Major *Lane* of the *Artillery* at *Chapelizod*, who directed *Smith* to go to town according to the appointment, and to bring *Hanlon* along with him. Accordingly on *Sunday* evening they went together, *Hanlon* accompanying *Smith*. In their way to town, *Hanlon* asked *Smith*, for what purpose, they were sent to town at that hour in the evening; upon which *Smith* disclosed to *Hanlon*, the purpose for which they were sent. *Hanlon* then hesitated to go, but *Smith* told him he was safe, for that Alderman *Alexander* and Alderman *Tweedy* were informed of the whole transaction—that a party of the peace officers were assembled at *Watling-street*, near the house of *Carmichael*, and it was agreed, that a person should be sent in to give a signal, when the party were assembled, that they might be arrested.

Smith and *Hanlon* then proceeded to town, and in their way the former stepped into the house of *Glennan*, who expressed his happiness, said he was glad to see the *Lad*, desired them to go to *Carmichael's* and the “*Boys*” would follow. *Smith* and *Hanlon* accordingly went to *Carmichael's*; there they found two or three, and presently they were joined by others, and addressed *Smith* as if he had not seen him before. They talked together for a while, and whispered somewhat about the design, but not in the hearing of *Hanlon*, though in his view, so that he could not go away without being perceived. The signal was then given—the party came in—the persons at the bar were all arrested, and instantly committed.

This, Gentlemen, is a state of the facts which will be proved, and if you believe them, they necessarily draw the conclusion, that the prisoners are guilty of the offence charged against them. Some other incidental circumstances will come out, but they do not go directly to the facts charged, though they go to establish them;—
they

they will be told by *Smith*, and they give credit to his evidence, if he required corroboration. Gentlemen, he is not an accomplice—he had no intention to commit the crime—his object was to prevent it, if he could. It will appear, when the Magistrates came, these people pulled papers from their pockets, and threw them under the seat—papers directly evincing their intention of committing *High Treason*. One of those papers was the *Defender's Catechism*, in express words declaring their reliance upon the *French Convention*, and that their object was to dethrone all Kings. Upon some were found papers of a like tendency. This shews clearly their intention to commit the crime. *Smith* will be corroborated by the evidence of the Magistrates and other persons. When the facts shall be proved, there can be no doubt of the prisoners guilt; and if they be guilty, we can only lament, that crimes of the deepest dye can be punished but as a misdemeanor.

THOMAS SMITH. *Sworn.*

Examined by the SOLICITOR GENERAL.

Q. Do you recollect the 3d of *January* last?

A. I do.

Q. Do you remember to have called upon any body that day?

A. At the house of *Andrew Glennan*, No. 7, *Bowbridge*:—there he is (*pointing at the prisoner in the dock.*)

Q. Had you any conversation with him?

A. Yes: He treated me to a beef-stake, and then took me out, and gave me two pots of porter.

Q. What conversation had you with him?

A. The first person that broke the discourse was *Glennan's* wife. She asked me, if there was a recruit in the *Artillery* of the name of *Hanlon*.

Q. What answer did you make?

A. I told her, I did not know him, nor did I at the time;—I then recollected and said, I did know him, that he lived a few doors from me. *Glennan* said, you are the very man the business lies upon. He must be settled. I shall way lay him and kill him.

Q. Did he assign any other reason?

A. *Glennan* said, there was to the amount of eleven *Defenders* in *Naas*, one of whom was brother-in-law to him,

him, *Glennan*, and *Hanlon* was to prosecute them at the next assizes.

Q. (By the Court. Did he say what they were in for.

A. For *Defenderism*?)

Q. You said one of the persons confined was *Gavacen*?

A. Yes: he was brother to Mrs. *Glennan*.

Q. How came you to be in terms of intimacy with *Glennan*?

A. I was sworn in *January* 1795, as a *Defender* in *James Doyle's* house, *George's-quay*, and *Glennan* and *Doyle* stood by, as commanding officers of the regiment.

Q. That connection subsisted?

A. Yes, it did.

Q. After the conversation terminated, was any appointment made?

A. Yes: I was to come as conveniently as I could, and to make up an intimacy with *Hanlon* in the mean time, and bring him to *Glennan's* house.

Q. You belong to the regiment of *Artillery*?

A. I do.

Q. You were then in that regiment?

A. I was.

Q. Did you inform any person of this conversation?

A. When I came home and found *Hanlon* was to be murdered, next morning upon parade, I called Serjeant Major *Lane* aside, and told him the whole. I told him, I was to set *Hanlon* and *Glennan* was to murder him. I met *Glennan* afterwards, when I went to *George's-quay*, and *William Keeling*, and *James Ward*, *Defenders*. They go by so many names, it is hard to know them.

Q. Did you go any where?

A. Yes, they brought me into a public house.

Q. (By the Court. They were *Defenders*?

A. Yes.)

Q. What passed?

A. *Glennan* opened the discourse, and informed the other two that I was the man who could set *Hanlon*, and bring him forward to be murdered.

Q. You

Q. You mean *Glennan*, the prisoner?

A. The present man there.

A. What further did he say?

A. I was to meet him as soon as possible again.

Q. Was that part of the conversation?

A. On that day it was, and on or about the 24th of *January*.

Q. For the same business?

A. Yes.

Q. How soon after did you meet them?

A. On the 24th of *January*.

Q. Did you see *Hanlon* between that day and the former day?

A. I saw him upon duty, but had no conversation with him.

Q. Did you see him upon the 24th.

A. I do not know the exact day:—but I had no conversation with him. I had no conversation with him three times in my life, 'til I was sent to have him murdered.

Q. What happened upon the 24th.

A. I went to *Glennan's* upon *Bow-bridge*. Word was left that he was gone to *Carmichael's*, 21, *Thomas-street*.

Q. Mention whether you met *Glennan* at *Carmichael's*?

A. I did.

Q. Is *Carmichael* at the bar?

A. He is. There he is (*pointing to him*.)

Q. Who else was there? Was there any other?

A. Yes. *Patrick Kinsbela*, *Michael Sleaven*, or *Shanagan*—to the best of my knowledge he was there.

Q. Are you certain, whether he was there or not?

A. I am positive.

Q. Do you see any body else who was there?

A. Yes, a good many—no not that day.

Q. What conversation happened in the presence of these you have mentioned upon the 24th.

A. The conversation that happened that day with *Kinsbela*, *Sleaven* and *Glennan* was for me to bring in *Hanlon*.

Q. Was *Carmichael* present?

A. No: he was attending his business in the house.

Q. Was he present at any part of the conversation?

A. Not belonging to *Hanlon*.

Q. Now mention the conversation between the other persons upon that day?

A. I was

A. I was to bring in *Hanlon* and they were all to murder *Hanlon* upon the *Long Meadows* going from *Bow-bridge*. I was asked, could I bring *Hanlon* next *Sunday*. I said, I did not know, the duty being severe, and perhaps I might be on duty myself, or he might. *Sleaven* said "you must bring him in, I have been watching a week for him, and if I wait until *Sunday* it will be a fortnight; if another *Sunday*, it will be three weeks." I said, I would call upon *Glennan* on *Thursday*, and let him know whether I could bring in *Hanlon* on *Sunday*, or not.

Q. Did any conversation happen about what they were to do with *Hanlon*?

A. To murder him upon the *Long Meadows*, and throw his body into the river.

Q. (By the Court. How many knew that purpose?

A. *Glennan*, *Kinsbela*, and *Sleaven*.

Q. Any body else at the bar?

A. No body else at the bar.)

Q. You undertook to come in on *Thursday*, did you come in?

A. I did.

Q. Whom did you see?

A. *Glennan* at his house.

Q. What happened?

A. He told me he saw *Kinsbela*, and asked me if I could bring in *Hanlon*—I told him I could—he told me, before he would eat his breakfast next morning he would be with *Kinsbela*, and give him word, and they would be fully prepared for the murder of *Hanlon*.

Q. Did you bring *Hanlon* the next *Sunday*?

A. I did, by order of Serjeant Major *Lane* from parade.

Q. Then during this time you had frequent communications with Serjeant Major *Lane*?

A. I had every day; as any thing passed, when I came home. I let Serjeant Major *Lane* know it.

Q. You came on the *Sunday* following?

A. I did.

Q. Where?

A. To the house of *Glennan*.

Q. *Hanlon* walked with you?

A. He

A. He did till we came half way through the fields when he stopped and said, "now, *Smith*, where am I going."

Q. (By the Court. Where was that?

A. About halfway between *Island-bridge* and *Bow-bridge*.

Q. In the *Long Meadows*?

A. Yes.

Q. What hour of the day?

A. It was coming the dusk of the evening—we were at *Glennan's* at night fall, and at this time we were half a mile from his house.)

Q. What answer did you make to *Hanlon*?

A. I told him, he was going to be murdered. He made a halt and said he would not come. I told him, he should come, and with the help of God I would bring him home safe.

Q. Did he consent?

A. He came forward, and said, "take care, perhaps they might poison me unknown to you."

Q. (By the Court. Who did he mean by *they*?

A. I told him the secret—the whole business from beginning to end, as we were going through the fields.)

Q. You satisfied him?

A. I did.

Q. You came to *Glennan's*?

A. Yes.

Q. Was he at home?

A. He was after dining; there was a man standing in the floor with him with the appearance of a gentleman with boots, and good clothes; I do not know who he was.

Q. Did the gentleman in the boots say any thing?

A. No.

Q. Did *Glennan* say any thing?

A. He did:—he asked me "had I *Hanlon*."—I told him I had.

Q. Did he ask it in the presence of the gentleman?

A. He did, out plump before him.

Q. (By the Court. Where was *Hanlon* at that time?

A. He was outside of *Glennan's* house.)

Q q

Q. Did

Q. Did Glennan make any answer when you told him?

A. Glennan said "wheel him up to Carmichael's, and all the Boys will be up after you by and bye."

Q. (By the Court. Did you understand what the Boys meant.

A. To be sure, the party that was to murder Hanlon, that Glennan was to bring.

Q. In the dusk of the evening?

A. Yes.)

Q. You went up to Carmichael's?

A. Yes.

Q. What happened there?

A. We had two pots of threepenny.

Q. Who?

A. Hanlon and I;—nobody else had come there; Glennan had ordered me to call for what I liked, and not to spare cost—when we called for the threepenny in walked Patrick Kinsbela.

Q. Who else came in?

A. There came about six in all.

Q. Mention their names?

A. I cannot give their distinct names. But I can shew them.

Q. Shew them?

A. Simon Walsh was there. There were ten in all, and one escaped.

Q. Point them out?

A. I do not know their names—Philip Kane was the man who came forward to the counter, and said "he was the man, who would do for Hanlon!" Andrew Glennan was there—Owen Reilly was there—I was often in his company as a Defender. ——— Byrne said he would convey Hanlon a piece of the way home.—The prisoners are all in different appearances from what they were in at the time. I have no call to say to Carmichael whatsoever as to the murder of Hanlon.

Q. Did they all come at once?

A. Kinsbela came with the first party, and then the other party came in.

Q. Did they converse together?

A. The word was this:—they were to ask, "who was with me."—I was to answer, "Hanlon a recruit, friend of mine, who came in to take a drink."

Q. D

Q. Did they ask you?

A. They did, and I told them—we were sitting in *Carmichael's* front tap-room, opposite the fire, as you go in, you turn to the right—we were sitting there when they came in. *Kinsbela* and the party moved to the center tap-room when they came in, and they called for two large jugs of punch, and some beef-stakes.—The jugs held two quarts, or three pints—we drank until such time as *Glennan* and his party came in.

Q. When *Glennan* and his party came in, was there any further conversation?

A. The same as before.

Q. Did *Glennan* ask you, as the other had?

A. Surely—they all shook me by the hand, and I thought they would force my arms from my shoulders.—I wanted to be near, and got near the door—Alderman *Alexander's* man was in the front tap-room drinking with another person.

Q. He was there you say?

A. He had been with me there the night before, I shewed him where to sit privately, and how to act for taking these people. I told him I would give him a signal, when to take the people.

Q. Do you know his name?

A. No.

Q. How long did you sit before the signal was given?

A. We were not sitting long—Some made me sit on their knees—*Sleaven* was running about like a distracted man and he said “when this business is completed, I will “bring 18000 men to *Dublin* on the *Friday* following.”

Q. Did *Glennan* hear?

A. Certainly, and *Kinsbela* too.

Q. Did Alderman *Alexander's* man hear?

A. No.

Q. You talked about a sign, what sign?—Was it a *Defender's* sign?

A. No. I was to take off my hat, to scratch my head, and give a cough—I did so, and Alderman *Alexander's* man went out for the party.

Q. Was there any further conversation between you relative to the party?

A. None. We sat down and the 2d toast we drank was “bad luck to all bad *Defenders*.”

Q. Was

Q. Was that so loud as that all the company could hear?

A. It was, the whole house could hear it:—it was not hid in a bushel.

Q. After that did any thing remarkable happen?

A. I do not know what happened between *Hanlon* then, because I went to the door, near the front tap-room; but I had my eye upon *Hanlon*, for fear of any danger to him:—they were all so fond of me, some shaking me by the hand and almost pulling my arms off.

Q. How soon after did the guard come?

A. I had not time to take a glass of punch before they came.

Q. What happened after?

A. Colonel *Alexander* came in and that gentleman (*Alderman Tweedy*).

Q. What did they do?

A. They desired the constable to make me prisoner and take me one side out of their company, for fear they should hurt me. The Alderman then took the prisoners one after another, and desired me pinch his arm as any of the party passed; a man was then put upon each side of the prisoners, until they were brought to the office.

Q. Were they searched?

A. They were.

Q. Did you see any paper?

A. No.

Q. *Hanlon* was there that time?

A. He was all the time, and can tell what passed. There was a paper taken out at Alderman *Alexander's* office, and read.

Q. Out of whose pocket?

A. I do not know.

Cross-examined by Mr. M'NALLY.

Q. How long have you been in the *Artillery*?

A. Since the 15th of *April*, 1795.

Q. Was it before, or after you enlisted, you were sworn a *Defender*?

A. Before.

Q. Were you intimately acquainted with *Glennan* before you went into the *Artillery*?

A. I was.

Q. Did

Q. Did Glennan hold any conversation with you about going into the *Artillery*?

A. I'll tell you the reason, I went in. I was a *protestant* all my life, and so was my father and grandfather since King *William's* time. I was obliged to hide my bible and prayer-book, and I consulted with my wife, and determined to go into the army, to practise my profession as usual. I was obliged to make my daughter deny that she was a *protestant* born, and make her say, she went to mass.

[Here the witness was examined by the Court.]

Q. When did you hear of their intentions?

A. In *February*, 1795.

Q. What did you hear?

A. They were talking in *Connor's* house—we expected every day a massacre and rebellion was to break out—no *protestant* was to be left alive. We were to serve under *Sir Edward Bellew*, and were sworn to that. The oath was to serve under *James Cole*, *Sir Edward Bellew*, *Napper Tandy*, and *Hamilton Rowan*. There were sheets of paper and they swore to it, as they said. I gave information. They were to have no King—they said “we will recover our estates, sweep clean the *protestants*, kill the Lord Lieutenant, and leave none alive.”—there were a good many more by.

Q. What do you say were their determinations, as you can recollect them?

A. The oath was to serve *Sir Edward Bellew*, *James Cole*, *Napper Tandy*, and *Hamilton Rowan*—to serve *France* and *Ireland*.

Q. What did you say about the Lord Lieutenant?

A. We were one morning at *Connor's*, *Glennan*, *Dempsey*, and others—we came to a resolution of shooting the Lord Lieutenant.

Q. Upon what day was that?

A. I do not know; it was upon a *Sunday*, as he passed through the *Park*.—We were to take the *Magazine* in the *Park*, the *Castle of Dublin*, and put all the Nobility therein to death.

Q. You said you were in constant expectation of something?

A. Of the rebellion breaking out.

Q. Where?

A. In

A. In *Dublin*.

Q. When did that commence ?

A. Last *April*, 1795.

Q. How do you know it was in *April* last ?

A. It was some time about *April*, or *March*—it was about that time I lifted—I gave information so often to Captain *Burgh* and to the Noblemen in *Dublin* and *Ireland*, and seeing no notice taken of it, I was sure I would come to a bad end.

Q. To whom did you give information beside Captain *Burgh*.

A. I was brought to the *Castle* and saw three or four Lords with stars. I do not know who they were—Captain *Burgh* knew who they were.

Q. You gave information you say early in 1796 ?

A. I did in *January*, 1795.

Q. To whom ?

A. To Captain *Legge* and Captain *Burgh* and other gentlemen, I do not know them.

Q. You said you saw persons with stars ?

A. I did.

Q. Do you remember how many ?

A. To the best of my knowledge three or four.

Q. What part of the *Castle* ?

A. As you go into the upper *Castle-gate*, from the lower, on the left there is a door in the corner, I went in there.

Q. Were you examined ?

A. I was.

Q. Who examined you ?

A. The gentlemen there.

Q. Were there any gentlemen of the bar there ?

A. I do not know.

Q. What hour of the day or night was it ?

A. It was early ;—in the month of *April*. When I spoke of *January*, it was in the evening.

Q. Were you examined another time ?

A. Yes, I saw Captain *Burgh* there.

Q. Who do you mean by *Noblemen* ?

A. The *Noblemen* I saw there. There was another gentleman with Captain *Burgh* there. I did all I could to get forward, but could get nothing done.

Q. In what situation were you ?

A. I kept a porter house in *Garden-lane*.

Q. You were twice examined at the *Castle* ?

A. I was.

A. I was.

Q. Consider before you answer—by virtue of your oath, was there any person there dressed like a lawyer at any time you were examined?

A. There was a person dressed in black, but I did not know whether he was a lawyer.

Q. Do you know him?

A. No.

Q. How many were there?

A. Three or four.

Q. Where did you see the people with stars?

A. In that room.

Q. Did you know any of them?

A. There was a gentleman with a small black patch upon his face, I did not know him.

Q. What was the last time you were examined in the Castle?

A. In the month of *April*.

Q. First in *January*?

A. Yes.

Q. Were the same persons present the last time as at first?

A. No: first there was Captains *Burgh* and *Legge* and a gentleman, I believe the Secretary of the Board of Ordnance.

Q. Who the second time?

A. The gentlemen with stars, and Captain *Burgh* was called upon to see whether I had told him before.

Q. He is alive?

A. Yes.

Q. Was he present at the examination?

A. No, but he came forward being sent for, and specified that I told him before.

Cross-examination resumed.

Q. You in order to preserve to yourself the free exercise of your religion, went into the *Artillery*?

A. In order to preserve a free life, and the exercise of my religion, and to save a number of innocent persons in the kingdom.

Q. Before you went into the *Artillery*, you had been an old *Defender*?

A. I had.

Q. But

Q. But you became so frightened at the wickedness of that society, that you went into the *Artillery*?

A. I did.

Q. How soon after you were sworn, did you come to the resolution of shooting the Lord Lieutenant?—Did you give information?

A. That was before I went into the *Artillery*.

Q. Did you give any information of the intention to shoot the Lord Lieutenant until you went into the *Artillery*?

A. I did. I hired a chair, and paid eighteen pence for it to go to *Burgh*.

Q. How long after the resolution was taken?

A. At that time, but a day or two after. I lost no time, but went immediately after.

Q. Did you immediately on its occurring to your mind that your religion and life were in danger, give up your connection with *Defenders*?

A. I did till they followed me to *Chapelizod*.

Q. Did you not go to the house of *Glennan*?

A. But it was a long time before that they followed me to *Chapelizod*.

Q. You followed him to *Bow-bridge*?

A. Yes, but he and many others followed me first.

Q. Did you assign any reason for going into the *Artillery*?

A. I did: I went for poverty. They asked me why I did not apply?—I said, I would not ask any friend.

Q. Is not the *Artillery* known to be a *protestant* corps?

A. It is a free corps for any man who conducts himself well, and promotion is free for any man.

Q. Did you ever see an advertisement for recruiting in the *Artillery*?

A. I did.

Q. Do they not state that the men must be *protestants*, and of good character?

A. That time was, but now they take any men in the way, and if they conduct themselves well may be promoted.

Q. Was not the qualification inserted in the last advertisement?

A. I did not see one these five years.

Q. Is it not the custom to insert it down to this day?

A. I do not believe it—of a *Sunday*, when we parade
at

at *Chapelized* every man is dressed and when church bell rings, the drum beats, and those who go to mass, turn to the left, and it is free for the exercise of religion, every man does as he pleases.

Q. You and *Glennan* have been acquainted for a considerable time ?

A. From the 1st of *January*, 1795.

Q. You kept a porter-house in *Garden-lane* ?

A. I did.

Q. Did *Glennan* resort your house there ?

A. He did.

Q. Did you at that time go to any place of worship ?

A. No. I went two or three times with them to mass, but never went within side a church door.

Q. You became a *Defender* in 1795 ?

A. I did.

Q. And you continued down to *April* the time you enlisted ?

A. I did.

Q. Do you not believe that your entering into the *Artillery* intimated to these people that you were a *protestant* ?

A. No, I am positive it did not.

Q. Did you continue to deny your religion after ?

A. No, I went to church freely as any other man.

Q. After that did you visit *Glennan* and the others as a *Defender* ?

A. I did.

Q. When they followed you, as you say, to *Chapelized*, had you no apprehension, that these men, who were to sweep the *protestants*, would sweep you ?

A. I had apprehensions of it, and seldom expected any thing else.

Q. And did you not go alone to the house of *Glennan* ?

A. I did with *Hanlon*.

Q. Did you not go without him ?

A. I did, often alone.

Q. Did you not conceive from the description you have given of *Glennan*, that he was one, who would sweep off the *protestants* ?

A. I was.

Q. And yet you went to him ?

A. I went there through fear of my life.

Q. From that fear you went into the *Artillery*?

A. I did. I went to *Glennan's* by order of Serjeant *Lane*.

Q. *Hanlon* and you were not intimate?

A. No.

Q. The first intimation he had, that he was to be murdered, was upon the bank of the river?

A. It was.

Q. Between *Island-bridge* and *Chapelizod*?

A. It was.

Q. You were afraid of being cut off by these people, and cautioned *Hanlon* to defend himself?

A. No, I told him nothing till we left *Chapelizod*.

Q. He was unarmed?

A. No, he had his side arms.

Q. Had you been on terms of intimacy with all the prisoners?

A. I was often in their company, but did not know their names; these *Defenders* give themselves extraordinary names.

Q. Are you so well acquainted, as to swear to their faces?

A. Did I not do so already?—I swear they are the men, who were by to murder *Hanlon* and none other.

Q. Do you take upon you to swear, that all the ten men in the dock were present and over-heard the conversation respecting the murder?

A. I am positive they were all consenting, and were to assist in it.

Q. Was the proposal to murder *Hanlon* so loud, that every man could hear it?

A. Certainly.

Q. How large was the room?

A. It was a large room.

Q. I am speaking of the last night?

A. Sure they did not talk of the murder of *Hanlon* before his face.

Q. Did any person come in?

A. It was a free house.

Q. Did any person come in, and who were at the fire side?

A. I am not positive.

Q. Are

Q. Are you positive they were all present at the consultation to murder *Hanlon*?

A. No, there were twenty there.

Q. Now, I ask you, were all the men at the bar in the room that night?

A. I am not positive.

Q. Who were there the first night?

A. There were a great many—but all who were taken on the last night by my directions knew the plot.

JOHN HANLON. *Sworn.*

Examined by Mr. PRIME SERJEANT.

Q. Do you remember the 31st of *January* last?

A. I do.

Q. Did you receive any order from Serjeant Major *Lane* that day?

A. I did.

Q. What was it?

A. To come into town along with *Smith*, I did not know for what, till I came half-way—*Smith* stopped to draw water—*Smith* said, “you are going to be murdered,”—I said, I would not go—he said, not to fear and told me the way. I then said, I would go, if it was to the mouth of a six pounder. We came to *Glennan’s*, I leaned my shoulder to the door, *Smith* went in, and *Glennan* said, “wheel up the lad to *Carmichael’s*, and “drink the best.”—We did so.—They came in two parties, five, or six each. They removed us from the place being a small room, they took *Smith* upon their knees, they were so glad to see him. I drank heartily sure enough, and after some time, I said, it was growing late, for I should be put into the guard-house. He went to the door, and a croud came in. I was pleased to see them, and took courage, and drank hearty. *Smith* was taken and the rest brought together. They drank “present death and confusion to all bad *Defenders*,”—that was against me for betraying them.

Q. You were to give information against *Defenders*?

A. I gave information against a party for a design to kill the Rev. Mr. *Walsh* at *Kilcock*.

Q. Point out the men?

A. I think

A. I think they were all there (here he pointed several of the prisoners)—it was candle-light, and I was in much confusion, but I give my affidavit this man was there (pointing at *Owen Reily*) and this man (*Peter Kinsbela*) and this man (*Simon Walsh*) and this man (*Andrew Glennan*) and this man (*Hugh Byrne*).

Q. Were all the persons there that night taken into custody?

A. They were, ten I think and the landlord.

Cross-examined by Mr. GREEN.

Q. How long were you acquainted with these men before?

A. Never, not one man.

Q. How long were you in their company that night?

A. Perhaps three quarters of an hour.

Q. Were they not divided by separate benches?

A. No, because the first party that came in took us out of a small bench, and brought us into a spacious place.

Q. You were a good deal terrified?

A. I was certainly.

Q. You had not seen them before?

A. No, not one.

Q. How then are you so certain as to their being in the same place?

A. By their expressions.

Q. You cannot say, what dress they were in?

A. I did not examine their dress.

Q. Have they the same now which they had that night?

A. I am sure they have part of it. I swear to the five men—the very identical men.

Q. They suspected you to be a *Defender*?

A. I was taken in to be a *Defender* by a North-country man at *Kilcock*, a stone-cutter, and I was obliged to swear, or I would not come out alive.

Q. You drank very heartily?

A. Three pints and a half of punch.

Q. How much had you taken before the croud appeared?

A. Two pots of beer and two jugs of punch.

Q. You mentioned to *Smith*, that you were afraid of staying?

A. I did, seeing them going about.

Q. You

Q. You knew the officer had given you leave to go?

A. He did. But I did not know, not seeing the constables coming, how much danger there might be.

Q. Did you declare the night the persons were taken, that you had no charge against *Reily*?

A. What charge could I have against any of them, but for their oaths and declarations.

ALDERMAN ALEXANDER. *Sworn.*

Examined by Mr. SAURIN.

Q. Do you recollect getting information from *Smith*?

A. I do.

Q. What was the time and what the nature of the information?

A. A person called upon me at *William-street*, and said, that a person of the name of *Smith* would give information against sworn *Defenders*, and who were swearing *Defenders*, and that if I would meet him at any time, where he would not be suspected, he would meet me. I appointed the next morning at ten o'clock: he came and he told the story exactly as he related it here.

Q. You heard him give his testimony here?

A. I did.

Q. And the information he gave you was exactly the same as the account he gave here?

A. Exactly.

Q. Did you mention the time this happened?

A. It was the *Thursday* before these people were taken up—the 28th I believe.—I fixed with *Smith* at the office to call at my own house at four o'clock, and I sent for Alderman *Tweedy*. *Smith* came and gave examinations against these people. I agreed that he should go to the house with my men, in order to take them when they were assembled, by giving a signal. At the time appointed, two men were stationed at the house—I was told the sign was made—I came down with a party to *Carmichael's* house and took them. I spoke to *Smith* and desired him to identify them. He asked me, how? I told him, when I asked any of them what his name was, if he was of the party, to give my arm a pinch. I asked each man his name and *Smith* gave me a pinch.

Q. How many?

A. Ten and the landlord—he was not sitting at the table.

Q. Can

Q. Can you identify them?

A. Six of them I can—their dresses are all altered—that man, *Sleaven* or *Shamroque* I know very well. *Glen-nan* I recollect perfectly well—I remember *Reily* too—we brought them all up to Alderman *Tweedy*'s office, and he committed them.

Q. Was the Alderman there at the time the prisoners were brought?

A. He was at the office.

Q. Did you see any thing more?

A. There was a paper under the table, a sort of *Catechism*. He pulled another paper out of the pockets of one of the party. Here are the papers.

ALDERMAN TWEEDY. *Sworn.*

Examined by Mr. WORTHINGTON,

Q. Did Alderman *Alexander* give into your care any persons on the 31st of *January* last?

A. He did.

Q. Look round, and try if you see them?

A. I do; to the best of my belief they are the persons.—I put them into a dock, and took them out one by one, and *Smith* identified them all. I gave them to the constable.

Q. Who brought them to *Newgate* from your office?

A. My constables.

Q. Have you any of those constables here?

A. No.

Q. Did you find any thing upon any of the prisoners?

A. I found a bible, and a manual, and this pocket-book, in which there was a paper with some powder in it. Under the table where they were sitting, I found a number of bits of paper which I endeavoured to put together, but I could not. Under the seat I found this kind of catechism.

Q. You sent the men to *Newgate* who were given to you?

A. I did.

TRESHAM GREGG. *Sworn.*

Examined by Mr. SOLICITOR GENERAL,

Q. You received all these men at the bar from Alderman *Tweedy* on the 1st of *February* last?

A. I did.

A. I did. [here he mentioned all their names].

Q. Under a warrant from the Alderman?

A. Yes.

Cross-examined by Mr. RIDGEWAY.

Q. Neither *Connor* nor *Dempsey* were delivered to you at the same time with the others?

A. They were not.

[Here the papers were offered to be read, but the counsel for the prisoners objecting, that no paper could be read, except such as was actually found upon the possession of one of the prisoners, or satisfactorily connected with one of them, the paper found under the seat was not read.]

[The following paper found by Alderman *Tweedy* upon one of the prisoners was read.]

" Are you a Christian?—I am.—By what?—By
 " baptism.—Who baptised you?—St. *John*.—Where?
 " —In the river *Jordan*.—What did he call you?—To
 " be loyal.—To who?—To God and my Brothers.—
 " Are you consecrated?—I am.—To what?—To the
 " *National Convention*—to quell all nations—to dethrone
 " all *Kings*, and plant the Tree of Liberty on our *Irish*
 " land—whilst the *French Defenders* will protect our
 " cause, and the *Irish Defenders* pull down the *British*
 " laws—Which is the first T.?—The Tree of Liberty.
 " Who planted it?—The Duke of *Orleans*.—Where?
 " —In his own Lawn.—How high are you?—Three
 " steps to Paradise.—How broad are you?—From E. to
 " W.—How long are you?—From N. to S.—Are you
 " astray?—No, I am not astray.—Where are you go-
 " ing?—To the North.—What to do?—To look for
 " my *Brother*.—What is his name?—*Sarsfield*.—What is
 " your number?—It is 5.—What is your pass word?—
 " *Eliphismatis*—How do you stand those times?—up-
 " right as well as I can—I am afraid—Don't be afraid.
 " The Duke of *York* will save you.—What do you
 " carry?—The Rod of *Aron* at command.—Who sent
 " you here?—*Simon Peter*.—Your coat is dirty?—Is it
 " high up?—Pretty high up.—If you be a *friend* you
 " will come and clean it—Where did the Cock crow
 " when

“ when the world heard him ?—In *France*.—What is
 “ your opinion of the weather ?—It is quite clear. I
 “ think the faded flower will blow again.”

Mr. *McNally*. My Lord, and Gentlemen of the Jury. In times like these, after what you have heard, considering myself, what I am in heart and soul, loving and revering the constitution under which I live, I shall not address you without expressing the abhorrence which I feel in my mind from the charge against the prisoners ; and I cannot have a doubt, that every man upon the Jury, equally abhors a crime, marked by the most infamous cruelty, that can degrade the human heart. A conspiracy to commit a crime can have no palliation from the crime not having been perpetrated, and therefore the impression upon your mind must be the same, as if the murder were actually committed. But, Gentlemen, let me warn you against retaining that impression in your mind, when you deliberate upon the case of the prisoners, because it is your duty to wipe away the heinousness of the offence so as not to suffer it to influence your minds beyond the investigation of the evidence which has been adduced. You are not to form a sudden conclusion, because the charge is atrocious. You are to consider this, that if such an offence could have been taken into consideration by *ten* men, it is equally possible, that *two* men, such as the witnesses could form a conspiracy to fabricate the charge.—They stand in equal situation as to past conduct. A paper is read—to prove what ?—that the prisoners are *Defenders*—the *witnesses* acknowledge they are *Defenders*.—It appears, that they were considered to be perpetrators in all the enormities, until, as they allege, they took an asylum in the regiment of *Artillery*.

Gentlemen, I certainly cannot but acknowledge, that one fact sworn to by these men is corroborated—but what is that ?—that they were taken in the house of *Carmichael*. But it does not follow, that they were all acting together as conspirators, and only four or five of the prisoners have been identified by either of the witnesses.

Gentlemen, the credit of the witnesses is with you, for this case depends entirely upon the credit, which you may give them ; and when you come to consider upon their credit, though it does not appear, that they come as approvers—that they were apprehended first and came to save them-

them-

themselves from prosecution, yet it appears, that there was a time, when they themselves would have been guilty and were guilty of the very offences, which they impute to others. Gentlemen, witnesses will be produced on the part of some of the prisoners, to shew that though they were in the house, yet that they are innocent persons.

JAMES WHITE. *Sworn.*

Examined by Mr. GREEN.

Q. Do you recollect the 31st of January last?

A. I do.

Q. Were you in the house of *Carmichael* the evening of that day?

A. *Soraghan* and *Reily* were in my company in a part of the room at a distance from the others. *Soraghan* lodged in the house. He was going home having disagreed with his Master, and wrote a letter to his mother to that effect. We went to look for a vacant seat in the front room, then went into the back room; there were 9 or 10 men there, and two *Artillery* men. We went to the first vacancy opposite to them; we had two glasses—*Reily* then came in, and sat down and took two glasses of punch. A gentleman came in and gave the first company in charge and no person was let out. We sat contented there, and who the other persons were, I knew not.—But on the coming of the Alderman, he enquired our names and he apprehended them as he got their names, and when he had the large company apprehended, and *Carmichael*, the man of the house, he then turned to *Reily* and said, “you will come too, a very good name.” The only thing *Reily* had about him was a *crane-note*. He then asked *Soraghan* his name, “you will come too,” said he.—With that they marched out of the house, and no more was said, that I heard.

Q. Did either of the *Artillery* men make any declaration respecting with regard to *Reily* or *Soraghan*?

A. I spoke to the gentleman apprehending them and said, “I hoped there was nothing as to them or their company.” The *Artillery* man rose up and said, “no person was concerned, but those who sat with him in the large company.”

Cross-examined by the PRIME SERJEANT.

Q. Soraghan and Reily lodged at Carmichael's?

A. Yes.

Q. What brought you to Carmichael's?

A. I was upon my travels home and met the two—
Soraghan was at the door.

Q. You met them accidentally?

A. I found them there.

FRANCIS RUSSELL. *Sworn.*

Examined by Mr. GREEN.

Q. Do you recollect the 31st of January?

A. I do, very well.

Q. You were at the house of Carmichael?

A. I was.

Q. Do you know Reily and Soraghan?

A. I never saw them before that night—they handed me a glass of punch—they were not of the company, who were detected, but when the Alderman came in, he desired all to be stopped.

Q. Did you hear either of the Artillery men make any declaration as to Reily or Soraghan?

A. No, I did not hear.

Q. (*By the Jury.* What are you?

A. I am a constable and went there that night).

ALDERMAN ALEXANDER *called again.*

Q. Was there any reason, why Reily and Soraghan were separated?

A. They were in a separate box with a woman.

Lord CLONMELL. There is evidence for the Jury as to ten. *Gentlemen of the Jury.* The prisoners stand indicted for that they on the 31st of January last did conspire to kill and murder a person of the name of Hanlon. To support this prosecution Thomas Smith was produced; I shall read over his evidence without any observation, because I shall leave it totally to you. The case turns entirely upon the credit you give the witnesses.—(*Here his Lordship stated all the evidence*). A paper was produced, manifestly treasonable, every word of it, and it goes to
shew

shew you, that they were likely to assemble for the purpose of murdering a person, who was to prosecute other *Defenders*, being *Defenders* themselves. Gentlemen, here the prosecution was rested, and Mr. *M'Nally* put the case upon fair ground, whether the prisoners, or the witnesses were the conspirators?—It is a main question for your consideration. If you believe they have sworn false, and that this was a plan of theirs,—a scheme to bring innocent persons into crimination, you must acquit them all. But if you believe the testimony of these witnesses, with the evidence of the Aldermen and *Gregg* as to their identity, you will find them guilty. This is a misdemeanor, I am glad it is, because if the crime had been committed, they must have been tried for murder. They then produced *James White*; all that he swore was, that he was present at *Garmichael's* house. He endeavoured to distinguish, so as to get out *Reily* and *Soraghan*, but the first witness said they had all decided to kill *Hanlon*—all participated in the intention.—This witness said these two were in a seat with him, distant from the other company—the *Artillery* men said they were not of the company at first but afterwards they included them.—Very little occurs to me, upon this occasion, to say to you. It is for your consideration. If you believe, that these people assembled with the criminal intent charged upon them—that they were brought together for the purpose of forming a scheme to destroy *Hanlon*, you ought to find them all guilty. If any line of distinction occurs to you, with regard to *Reily* and *Soraghan*, you will find accordingly: it does not occur to me. I will leave the case to you; and if you have a reasonable doubt, not such as idle or fanciful men may take up on remote probabilities, but such as cannot satisfy your judgments upon your oaths, then you will acquit. If you have no such doubt, you will find them guilty. I have not dilated upon this case: perhaps the horror of the offence might lead me farther than I ought to go. You are rational men, and you will determine according to your consciences, whether you believe these men guilty, or not.

The Jury retired for about ten minutes and returned with a verdict finding *James Connor* and *James Dempsey*,
Not

Not Guilty—but all the other persons named in the indictment,—*Guilty*.

Thursday, March 3d. 1796.

Both the Grand Juries were called over.

The prisoners found guilty upon the indictment for the conspiracy were brought up to receive judgment.

Lord CLONMELL, addressed the prisoners and said— I trust you will believe me, when I tell you, that I never left this Court with more real concern, than I did the first day you were called up here. I saw, as indeed at present, with sorrow and pain, ten decent looking men, above want, with no appearance of distress, with nothing to provoke them—with every reason to hope, that they were and would be, and had been as useful members of society, as any other ten men in the community. Look at them (said his Lordship, turning to the Grand Juries) and see whether you do not participate with me—they have the appearance either of tradesmen, or farmers, or of that class of citizens that might well have supported themselves by honest means, carrying on an honest livelihood and making themselves as respectable as any men, or set of men in the state—(turning to the prisoners).— You may think then, with what painful distress, I heard the offence against you, which the Jury believed, notwithstanding every circumstance, that might be urged in your favour; because ten of you were tried together; your number would be a circumstance to induce a Jury to lean in your favour, if they had not been clear in the evidence against you. You have just heard sentence of death pronounced against a wretched soldier in your presence (*a*). You, every one of you, owe to your prosecutor, *Smith*, whom you conceive to be a subject of great detestation—You owe to him, that the same sentence which you have heard pronounced upon the soldier, has not been repeated against every one of you, and that you are not the subject of that infamous punishment, which

(*a*) His Lordship had a few minutes before passed sentence upon *Mulhern*, a private in the *Dougal* Militia, for murder.

I have

I have been obliged to pass upon that man. You have been charged upon the clearest evidence with conspiring to murder a fellow creature, who never gave personal offence to any of you. And see under what circumstances you appear—and it is necessary you should know the horror of the offence. This act, from its commencement to the perpetration of it contained no small space of time. I know not what communion you are of—four *Sundays* intervened upon which you went to religious worship, with this horror upon your minds, and the very day you fixed upon to perpetrate the offence was *Sunday*, as if you were outraging against God Almighty.

You have had time to make your defence. I will state a few of the leading circumstances of the evidence and with the sanction that the Jury have given it by their verdict upon their oaths, and they were all respectable citizens. The case against you was this:—*Glennan* had a brother-in-law in the gaol of *Naas*, and he was informed against with ten or eleven other *Defenders* by the person you had conspired to murder—his name was *John Hanlon*. While those people were in gaol, *Glennan* and his wife got hold of *Smith*, who had been a *Defender* himself from 1795. That appeared from these circumstances. He swore, that in the presence of several he tendered his information three times at the Castle of *Dublin*, the first time so early as *January* 1795, one whole year before this transaction. He was there examined and gave information against several *Defenders*, who had sworn to be true to the *National Convention*—to follow that fugitive traitor *Hamilton Rowan*, and also to follow *Napper Tandy* and two other persons—the sound of the name of one is respectable to my ear, *Sir Edward Bellew*—the other, *Cole*, I know nothing of. *Smith* with others was sworn to support *Defenders*. He was examined two or three times by the confidential servants of Government from *January* 1795 to *April* 1795. Now you all heard and saw what passed in the Autumn of 1795. It has been conveyed to the public through other lips, that is the evidence of *Lawler*, between whom and *Smith* it never was pretended there was any knowledge. *Hanlon* gave information against a set of people who had vowed vengeance against a respectable clergyman, *Mr. Walsh*, and in order to take away the testimony of *Hanlon*, one scheme of murder was to follow the other. *Glennan* had undertaken to lay hold
of

of *Smith*, who at this time was in the *Artillery*, to which he had fled, not thinking there was assistance to be had at the Castle at that time. *Glennan* formed the plan so early as *January 1796*, and considered *Smith* as a proper person to seduce the unhappy man into their power—for that is one part of their execrable system, treason to be executed by murder. The mode was this:—*Smith* was to deliver *Hanlon* into their hands, they were to take him along the meadows, and put him to death and throw his body into the river, and *Kane* said, “as soon as it is fixed I will on the *Friday* after be able to march 18000 men into *Dublin*.” Whether he lied or not, or could do so or not, it is sworn he made the declaration. The import of the oath taken was to serve certain persons, who were named, to recover their estates, sweep clean the *protestants* and leave none alive. Which of you made use of this expression constitutes no variation as to the argument—that was the general purport of *Defenders*—it has been sworn to by great numbers of people. The impression I wish to make is, that this is not an idle tale, but that there is existing, and has been for some time, a horrid system of murder and treason, the seeds of which were sown by such men as *Rowan* and *Tandy*, who have fled from their country. I wish that masters of families were more attentive to their children and their families in the early part of their lives. I have endeavoured to save the youth of this town. By two examples I have endeavoured to save the rest.

Masters should have some care that children and apprentices be not brought to the gallows in a hurry. Every master of a family should be accountable for his family, and not suffer them to resort to punch-houses—first letting them get together, then they are infected and made authors of the worst offences. From the 3d of *January* down to the last day of the month, when this horrid plot was preparing against *Hanlon*, it appears that *Glennan* was the person to bring the Boys about him. *Smith* informed *Lane*, and by well concerted conduct, and the spirit and vigilance of Alderman *Alexander*, this horrid and infamous scheme was prevented from execution, which might have been perpetrated in half an hour after.

One of the Prisoners. My Lord, there were five of us chandlers had nothing to do with the *business*—we had come from Chapel.

Lord

Lord CLONMELL. Five chandlers together on a Sunday evening in a punch-house!—You should have been in your own places. You talk of a chapel, that brings another part of the case into my mind. Let it be recollected, that *Hamilton Rowan* was, or professed to be a *protestant*. *Jackson* was a *protestant* clergyman, and therefore let not an expression of mine be supposed to apply to those of any persuasion. I am in too high a situation to fear any man, or class of men. I thank God, I am in a situation which puts me above politics. I have but one view—to exterminate this evil from the country, if I can.

What you have said, has not suggested any circumstance in your favour. But take it in another point of view. I suppose the persons I have named were professedly of the *protestant* religion.—What is doing in *France*?—There *Roman Catholics* are drowning in hundreds,—even their own clergymen are packed together and exterminated. So that religion is made a pretence. “We may begin with *protestants*, but the next day we begin upon another class,” and so they will proceed to a third, until they destroy each other. Let me go further and suppose they succeed. If the streets of the city flowed with the blood of *protestants*, that would answer no purpose. When the *protestants* of this country were fewer and weaker by thousands than they are now, they were able to establish themselves and they never can be born down but by their own timidity, and want of spirit. Would it benefit the *Roman Catholics*?—Certainly not. They have been told so, and the oath is the ceremony which binds wicked hearts together, and if one class of men were destroyed, another would succeed, and every man having any thing to lose would fall under the knife. Suppose them to succeed in this, and that these associated people were wicked to damnation, if they have any sense of it, would it answer them, if they had destroyed every *Roman Catholic* of property in the country?—No.—The country is a great one, and worth fighting for, and if they destroyed every man of property, the country would be conquered again. Therefore it is a fallacious system.

God and nature have joined *England* and *Ireland* together. It is impossible to separate them, and if bands of ruffians started up in every part, they could not hold the dominion of murder for a month. I have seen with
 pain,

pain, that this phrenzy has got among the people of *Ireland*, and if it be a phrenzy, prisons are their safest mad-houses. What is the situation of *Meath*?—Rich almost beyond any neighbouring county—the farmer happy—the peasantry, yeomen, and gentry all delighted with their situation, because all were independant. How is it altered?—Whence is it, that unhappy county has become a sort of slaughter-house?—From the practices of some wicked minded people; who they are I know not;—God forgive them. They will fall victims of the law, against which they are struggling. While the countries round are perishing through the horrors of war and famine, *Ireland* could not say, there was a creature unfed, or unprovided for—Why?—Because the bad are fed by the good, and the *South* feeds the disturbers of the *North*; and if the country had been left to the *Defenders* and if it had not been for the industry of the *South* there might have been one universal famine?—What then are these distracted and unhappy people told?—But in truth I early saw and spoke of it in acts of my duty here and elsewhere, that the mischief originated in nests of Clubs in the city of *Dublin*.—*Dublin* is the mint for coining treason and circulating it in small parts, and making it current. A number of young persons with trades, which might make them respectable, not in want, no appearance of it, are become the most active agents. And here I must mention a circumstance—you must feel the weight of it. There never was a time, when persons of your description had less reason to complain. Look at the canals and various public works. Thousands of the poor are employed, and supplied with work even in the time of war. Within these five or six years past, many persons have looked to the state of the poor and endeavoured to make them all comfortable and easy—and yet this is the time in which this phrenzy has seized such numbers. Is this an idle tale?—Is it not notorious, that cruel and horrid murders have been committed upon witnesses, just at the eve of the commission?—Is it not part of the system spread through the country to destroy witnesses?—Two creatures, because they were witnesses, or supposed to be witnesses, have been brutally murdered in the dead of the night at the gate of a man, who deserves as well from this country, as any other man in it. He who has employed so many of the poor to improve and embellish

lish the most improved place in that part of the country where he resides. Few people are willing to do as much as he did. I have known him to have two military commissions. He quieted the *South* without a single person falling a sacrifice, and he quieted the *West*, with the thanks of that country. Yet, two persons were murdered at his gate, because they were witnesses.

What must be the situation of persons of his description, if the country be made disagreeable to them?—The land will be abandoned by all the proprietors and the tenantry will be left to be worried by tribes of agents and managers:—Their landlords will never see them.

So that taking this subject in every point of view, it is the most wicked system of murder and treason that ever was heard of in any country, that for some years past has disgraced mine own.

A very old author discoursing upon *Irishmen*, says, “where *Irishmen* are good, it is impossible to find better, “where they are bad, it is impossible to find worse.” I am afraid, we have got to this alternative. Treachery was never the character of *Irishmen*. Courage and intrepidity were their characteristics. Every creature is taught to fight, but boldly and fairly. But it was not until this system, founded upon the *French* mode, the total want of all principle, that we began to be disgraced.

I have gone thus far to shew the consequences of this wicked and black system by which you have been seduced, bringing destruction upon yourselves and every thing dear to you. I now come to the sentence, which I am obliged to pronounce upon you.

I have received two or three petitions this morning upon this subject. I am bound by the verdict of the Jury. It is a calamitous thing to think, that decent persons like you can be seduced. The witness swore that ten were equally acquainted with the intended murder. He acquitted three. But all the rest, he said, were acquainted with the design. I hope the example of this day will operate through the city, and all parts of the kingdom. You must have many relations. I will not wound them by exposing you in the streets—to send them home with sorrow and shame. For their sakes as well as your own I will not do it.

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But you must be punished and therefore each of you is to be imprisoned *three years*, pay a fine of 50l. and give security for your good behaviour for seven years commencing from the expiration of your imprisonment.

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